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file*

Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

Telephone: (213) 897-3937

FILED
DEC 19 1995
DEPARTMENT OF REAL ESTATE

By *R. Niederholtz*

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
MORTGAGES "R" US, INC.,)
JOSEPH PERUCH and CARLOS MIGUEL)
MARTINEZ, individually and as)
the designated officers of)
Mortgages R Us, Inc.,)
Respondents.)

No. H-1922 SA

STIPULATION AND AGREEMENT

IN SETTLEMENT AND ORDER

It is hereby stipulated by and between CARLOS MIGUEL MARTINEZ (sometimes referred to as "Respondent"), his attorney, Bruce Miller, and the Complainant, acting by and through George W. Wright, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 19, 1995, in this matter:

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

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

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 Department of Real Estate in this
7 proceeding.

8 3. On January 30, 1995, Respondent filed a Notice of
9 Defense pursuant to Section 11505 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 in
19 the Accusation and the right to cross-examine witnesses.

20 4. Respondent, pursuant to the limitations set forth
21 below, does not contest the allegations in the Accusation filed on
22 January 19, 1995, but chooses to remain silent and understands
23 that, as a result thereof, the Real Estate Commissioner may and
24 will, as a result of this Stipulation, find said allegations to be
25 true with the result that the Real Estate Commissioner may revoke
26 Respondent's real estate license and license rights.

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

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6. 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. This Stipulation and any Order made pursuant to this Stipulation shall have no collateral estoppel or res judicata effect in any proceedings in which the Respondent and the Department (or the Department's representative) are not parties. However, no ruling in any action brought by a party other than the Respondent or the Department shall effect the finality of the Decision entered in these proceedings pursuant to this Stipulation And Agreement In Settlement And Order. This Stipulation is made by Respondent, received by the Commissioner and the Department with the express

1 understanding and agreement that it is for the purpose of settling
2 these proceedings only and that this Stipulation is not intended
3 as, and shall not be deemed, used, or accepted as an
4 acknowledgment or admission in any other judicial or
5 administrative proceedings to which this Department is not a
6 party.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers and
9 solely for the purpose of settlement of the pending Accusation
10 without a hearing, it is stipulated and agreed that the following
11 Determination of Issues shall be made:

12 The conduct, acts or omissions of CARLOS MIGUEL
13 MARTINEZ, as set forth in the Accusation, constitutes cause to
14 suspend or revoke Respondent's real estate license and license
15 rights under the provisions of Business and Professions Code (the
16 "Code") Section 10177(d) for violations of the Real Estate Law.

17 ORDER

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

19 A. All licenses and licensing rights of CARLOS MIGUEL
20 MARTINEZ under Part 1 of Division 4 of the Business and
21 Professions Code are suspended for a period of ten (10) days from
22 the effective date of the Order.

23 B. However, the ten (10) days of the suspension shall
24 be stayed for one (1) year upon the following terms and
25 conditions:

26 (1) Respondent shall obey all laws of the United
27 States. the State of California and all its political subdivision

1 and all the rules and regulations of the Real Estate Commissioner.

2 (2) Respondent shall not engage in conduct that
3 would be a cause for a disciplinary action by the Department
4 during the period of probation.

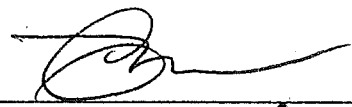
5 (3) If the Commissioner determines, after giving
6 Respondent notice and an opportunity to be heard, that a violation
7 of the conditions has occurred, the Commissioner may terminate the
8 stay and impose the stayed portion or otherwise modify the Order.
9 If Respondent successfully completes the terms and conditions of
10 the probation, the stay shall be permanent.

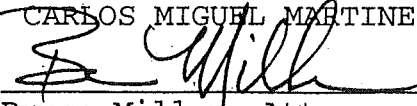
11
12 I have read the Stipulation And Agreement In Settlement
13 And Order, and its terms are understood by and are agreeable and
14 acceptable to me. I understand that I am waiving rights given to
15 me by the California Administrative Procedure Act (including but
16 not limited to Sections 11506, 11508, 11509 and 11513 of the
17 Government Code), and I willingly, intelligently and voluntarily
18 waive those rights, including the right of requiring the
19 Commissioner to prove the allegations in the Accusation at a
20 hearing at which I would have the right to cross-examine witnesses
21 against me and to present evidence in defense and mitigation of
22 the charges.

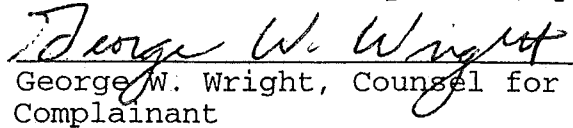
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24 DATED: 11-17-95

25 DATED: 11-15-95

26 DATED: 11/17/95

27

CARLOS MIGUEL MARTINEZ, Respondent

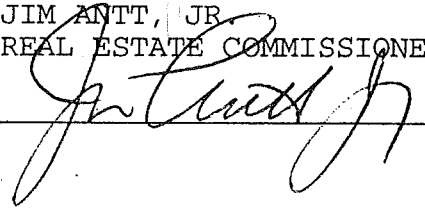

Bruce Miller, Attorney for Respondent


George W. Wright, Counsel for the
Complainant

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The foregoing Stipulation and Agreement In Settlement in
Case No. H-1922 SA, is hereby adopted as my Order and shall become
effective at 12 o'clock noon on January 9, 1996.

IT IS SO ORDERED 12/12, 1995.

JIM ANTT, JR.
REAL ESTATE COMMISSIONER


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Department of Real Estate
10 South Broadway, Room 8107
Los Angeles, California, 90012
Telephone: (213) 897-3937

FILED
DEC - 1 1995
DEPARTMENT OF REAL ESTATE

By K. Knecht

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-1922 SA
MORTGAGES "R" US, INC.,)	<u>STIPULATION AND AGREEMENT</u>
JOSEPH PERUCH and CARLOS MIGUEL)	<u>IN SETTLEMENT AND ORDER</u>
MARTINEZ, individually and as)	
the designated officers of)	
Mortgages R Us, Inc.,)	
Respondents.)	

It is hereby stipulated by and between JOSEPH PERUCH (sometimes referred to as "Respondent") and the Complainant, acting by and through George W. Wright, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 19, 1995, in this matter:

- All issues which were to be contested and all evidence which was to be presented by Complainant and the Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the

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

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 Department of Real Estate in this
7 proceeding.

8 3. On January 24, 1995, Respondent filed a Notice of
9 Defense pursuant to Section 11505 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 in
19 the Accusation and the right to cross-examine witnesses.

20 4. Respondent, pursuant to the limitations set forth
21 below, does not contest the allegations in the Accusation filed on
22 January 19, 1995, but chooses to remain silent and understands
23 that, as a result thereof, the Real Estate Commissioner may and
24 will, as a result of this Stipulation, find said allegations to be
25 true with the result that the Real Estate Commissioner may revoke
26 Respondent's real estate license and license rights.

27



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

13 6. The Order or any subsequent Order of the Real
14 Estate Commissioner made pursuant to this Stipulation shall not
15 constitute an estoppel, merger or bar to any further
16 administrative or civil proceedings by the Department of Real
17 Estate with respect to any matters which were not specifically
18 alleged to be causes for accusation in this proceeding. This
19 Stipulation and any Order made pursuant to this Stipulation shall
20 have no collateral estoppel or res judicata effect in any
21 proceedings in which the Respondent and the Department (or the
22 Department's representative) are not parties. However, no ruling
23 in any action brought by a party other than the Respondent or the
24 Department shall effect the finality of the Decision entered in
25 these proceedings pursuant to this Stipulation And Agreement In
26 Settlement And Order. This Stipulation is made by Respondent,
27 received by the Commissioner and the Department with the express



1 understanding and agreement that it is for the purpose of settling
2 these proceedings only and that this Stipulation is not intended
3 as, and shall not be deemed, used, or accepted as an
4 acknowledgment or admission in any other judicial or
5 administrative proceedings to which this Department is not a
6 party.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers and
9 solely for the purpose of settlement of the pending Accusation
10 without a hearing, it is stipulated and agreed that the following
11 Determination of Issues shall be made:

12 The conduct, acts or omissions of JOSEPH PERUCH., as set
13 forth in the Accusation, constitutes cause to suspend or revoke
14 Respondent's real estate license and license rights under the
15 provisions of Business and Professions Code (the "Code") Section
16 10177(d) for violations of the Real Estate Law.

17 ORDER

18 WHEREFORE, THE FOLLOWING ORDER is hereby made:

19 A. The licenses and license rights of JOSEPH PERUCH
20 under Part 1 of Division 4 of the Business and Professions Code
21 are revoked.

22 B. However, Respondent shall be entitled to apply for
23 and will be issued a restricted real estate broker license
24 pursuant to Section 10156.5 of the Code if Respondent makes
25 application therefor and pays to the Department of Real Estate the
26 appropriate fee for said license within one hundred twenty (120)
27 days from the effective date of the Decision.



1 C. The restricted license issued to Respondent shall be
2 subject to all of the provisions of Section 10156.7 of the
3 Business and Professions Code and to the following limitations,
4 conditions and restrictions imposed under authority of Section
5 10156.6 of said Code:

6 (1) Said restricted license may be suspended prior
7 to hearing by order of the Real Estate Commissioner in the event
8 of Respondent's conviction or plea of nolo contendere to a crime
9 which bears a significant relation to Respondent's qualifications,
10 duties or functions as a real estate licensee.

11 (2) Said restricted license may be suspended prior
12 to hearing by Order of the Real Estate Commissioner on evidence
13 satisfactory to the Commissioner that Respondent has violated
14 provisions of the California Real Estate law, the Subdivided Lands
15 Law, Regulations of the Real Estate Commissioner, or the
16 conditions attaching to this restricted license.

17 (3) Respondent shall, within nine (9) months from
18 the effective date of the restricted license, present evidence
19 satisfactory to the Real Estate Commissioner that he has, since
20 the most recent issuance of an original or renewal real estate
21 license, taken and successfully completed the continuing education
22 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
23 for renewal of a real estate license. If Respondent fails to
24 satisfy this condition, the Real Estate commissioner may order the
25 suspension of the restricted license until Respondent presents
26 such evidence. The Real Estate Commissioner shall afford
27 Respondent the opportunity for a hearing pursuant to the APA to



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such evidence.

(4) Respondent shall report in writing to the Department of Real Estate as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued while Respondent holds a restricted license, such information concerning Respondent's activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

(5) Respondent shall not act in the capacity of a designated officer for any corporate broker during the time that he has a restricted license.

(6) Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations or restrictions of a restricted license until one (1) year has elapsed from the date of issuance of the restricted license to Respondent.

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

12 DATED: 10-13-95

Joseph Peruch
JOSEPH PERUCH, Respondent

14 DATED: 10/29/95

George W. Wright
George W. Wright, Counsel for the
Complainant

16
17 The foregoing Stipulation and Agreement In Settlement in
18 Case No. H-1922 SA, is hereby adopted as my Order and shall become
19 effective at 12 o'clock noon on December 21, 1995.

20
21 IT IS SO ORDERED 11-17, 1995.

22
23 JIM ANTT, JR.
24 REAL ESTATE COMMISSIONER

Jim Antt, Jr.

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California, 90012
4
5 Telephone: (213) 897-3937
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FILED
MAR 15 1995
DEPARTMENT OF REAL ESTATE

By K. Herbold

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-1922 SA
12)
12 MORTGAGES "R" US, INC.,) STIPULATION AND AGREEMENT
13 JOSEPH PERUCH and CARLOS MIGUEL)
13 MARTINEZ, individually and as) IN SETTLEMENT AND ORDER
14 the designated officers of)
14 Mortgages R Us, Inc.,)
15)
15 Respondents.)
16 _____)

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It is hereby stipulated by and between MORTGAGES "R" US, INC., (sometimes referred to as "Respondent"), its attorney, Carl F. Herbold, and the Complainant, acting by and through George W. Wright, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on January 19, 1995, in this matter:

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

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

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 Department of Real Estate in this
7 proceeding.

8 3. On February 1, 1995, Respondent filed a Notice of
9 Defense pursuant to Section 11505 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 it
13 understands that by withdrawing said Notice of Defense, it will
14 thereby waive its 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 it will waive
17 other rights afforded to it in connection with the hearing such as
18 the right to present evidence in defense of the allegations in the
19 Accusation and the right to cross-examine witnesses.

20 4. Respondent, pursuant to the limitations set forth
21 below, does not contest the allegations in the Accusation filed on
22 January 19, 1995, but chooses to remain silent and understands
23 that, as a result thereof, the Real Estate Commissioner may and
24 will, as a result of this Stipulation, find said allegations to be
25 true with the result that the Real Estate Commissioner may revoke
26 Respondent's real estate license and license rights.

27

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

13 6. The Order or any subsequent Order of the Real
14 Estate Commissioner made pursuant to this Stipulation shall not
15 constitute an estoppel, merger or bar to any further
16 administrative or civil proceedings by the Department of Real
17 Estate with respect to any matters which were not specifically
18 alleged to be causes for accusation in this proceeding. This
19 Stipulation and any Order made pursuant to this Stipulation shall
20 have no collateral estoppel or res judicata effect in any
21 proceedings in which the Respondent and the Department (or the
22 Department's representative) are not parties. However, no ruling
23 in any action brought by a party other than the Respondent or the
24 Department shall effect the finality of the Decision entered in
25 these proceedings pursuant to this Stipulation And Agreement In
26 Settlement And Order. This Stipulation is made by Respondent,
27 received by the Commissioner and the Department with the express

1 understanding and agreement that it is for the purpose of settling
2 these proceedings only and that this Stipulation is not intended
3 as, and shall not be deemed, used, or accepted as an
4 acknowledgment or admission in any other judicial or
5 administrative proceedings to which this Department is not a
6 party.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers and
9 solely for the purpose of settlement of the pending Accusation
10 without a hearing, it is stipulated and agreed that the following
11 Determination of Issues shall be made:

12 The conduct, acts or omissions of Respondent MORTGAGES
13 "R" US, INC., as set forth in the Accusation, constitutes cause to
14 suspend or revoke Respondent's real estate license and license
15 rights under the provisions of Business and Professions Code (the
16 "Code") Sections 10176(e) and 10177(d) for violations of the Real
17 Estate Law.

18 ORDER

19 WHEREFORE, THE FOLLOWING ORDER is hereby made:

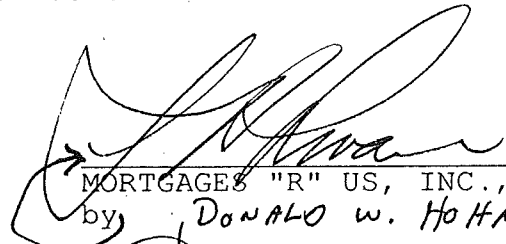
20 The real estate license and license rights of Respondent
21 MORTGAGES "R" US, INC., under the provisions of Part 1 of Division
22 4 of the California Business and Professions Code are revoked.

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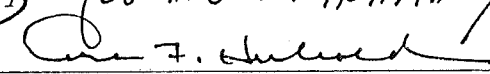
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I have read the Stipulation And Agreement In Settlement And Order, and its terms are understood by and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

DATED: 2-22-95


MORTGAGES "R" US, INC., Respondent,
by DONALD W. HOFFMAN / PRESIDENT

DATED: 2/22/95


Carl F. Herbold, Attorney for the Respondent

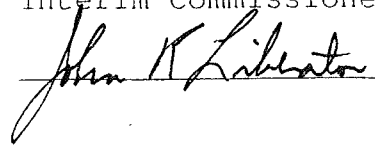
DATED: 2/28/95


George W. Wright, Counsel for the Complainant

The foregoing Stipulation and Agreement In Settlement in Case No. H-1922 SA, is hereby adopted as my Order and shall become effective at 12 o'clock noon on April 4, 1995.

IT IS SO ORDERED March 7, 1995.

John R. Liberator
Interim Commissioner



Sacto

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILE
MAR 21 1995
DEPARTMENT OF REAL ESTATE
By *H. W. ...*

In the Matter of the Accusation of
MORTGAGES R US, INC., et al.,

}

Case No. H-1922 SA
OAH No. L-9502092

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
Office of Administrative Hearings, 314 West First Street, Los Angeles

on November 29, 1995, at the hour of 9:00 a.m.
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: March 21, 1995

By *George W. Wright*
Counsel

cc: Joseph Peruch
Carlos Miguel Martinez
Sacto
OAH
MCL
RE 501 (1792)
Bruce Miller, Esq.
kw

Wright
(213)

George Wright, Staff Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, CA 90012
(213) 897-3937

FILED
JAN 19 1995
DEPARTMENT OF REAL ESTATE

By *K. Friederholt*

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DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-1922 SA
MORTGAGES R US, INC.,)	<u>A C C U S A T I O N</u>
JOSEPH PERUCH and CARLOS MIGUEL)	
MARTINEZ, individually and as)	
the designated officers of)	
Mortgages R Us, Inc.,)	
Respondents.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against MORTGAGES R US, INC., JOSEPH PERUCH, and CARLOS MIGUEL MARTINEZ alleges as follows:

I

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, makes this Accusation in his official capacity.

II

At all times herein mentioned, MORTGAGES R US, INC. ("MORTGAGES"), was and still is licensed by the Department of Real

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Estate of the State of California ("Department") as a corporate real estate broker.

III

At all times herein mentioned, JOSEPH PERUCH ("PERUCH"), was and still is licensed by the Department as a real estate broker in his individual capacity. On or about December 7, 1992, to the present, PERUCH was licensed by the Department as the designated officer of MORTGAGES. As the designated officer of MORTGAGES, PERUCH was and still is responsible for the supervision and control of the activities conducted on behalf of MORTGAGES by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

IV

At all times herein mentioned, CARLOS MIGUEL MARTINEZ ("MARTINEZ"), was and still is licensed by the Department as a real estate broker in his individual capacity. On or about August 7, 1992, to December 7, 1992, MARTINEZ was licensed by the Department as the designated officer of MORTGAGES. As the designated officer of MORTGAGES, MARTINEZ was responsible for the supervision and control of the activities conducted on behalf of MORTGAGES by its officers and employees as necessary to secure full compliance with the Real Estate Law as set forth in Section 10159.2 of the Code.

V

At no time material herein has Richard Pratella ("Pratella"), been licensed by the Department as a real estate

1 broker or as a real estate salesperson employed under the license
2 of a real estate broker.

3 VI

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

8 VII

9 All further references to the parties mentioned in
10 Paragraphs II, III and IV shall include MORTGAGES and shall be
11 deemed to refer to the officers, directors, employees, agents and
12 real estate licensees employed by or associated with MORTGAGES,
13 who at all times herein mentioned were engaged in the furtherance
14 of the business or operations of MORTGAGES, and who were acting
15 within the course and scope of their authority and employment.

16 VIII

17 At all times mentioned herein, for or in expectation of
18 compensation, MORTGAGES engaged in the business of, acted in the
19 capacity of, advertised or assumed to act as a real estate broker
20 in the State of California, within the meaning of Sections
21 10131(d) and 10131.2 of the Code, including the operation of a
22 mortgage loan brokerage business with the public wherein lenders
23 and borrowers were solicited for loans secured directly or
24 collaterally by liens on real property, wherein such loans were
25 arranged, negotiated, processed, and consummated on behalf of
26 others, for compensation or in expectation of compensation.

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IX

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2 On or about July, 1991, an Order to Desist and Refrain
3 was issued to PERUCH for violations of Section 10145 of the Code
4 and Section 2725 and 2832.1 of the Regulations.

X

5
6 On or about April 12, 1993, Department personnel
7 completed an investigative audit of the books and records of
8 MORTGAGES, pertaining to his mortgage loan broker activities, for
9 a period commencing on May 1, 1992, and terminating on February
10 28, 1993, and unless otherwise specified, the relevant period of
11 time referenced herein shall be the same. The findings of that
12 audit are set forth in the paragraphs that follow.

XI

13
14 In connection with the aforesaid activities, MORTGAGES
15 accepted or received funds from or on behalf of clients ("trust
16 funds"), in the form of credit report fees, appraisal fees and
17 earnest money deposits received from investors for the purchase of
18 trust deeds. MORTGAGES deposited these funds into the following
19 accounts at the Bank of America in Upland, California:

20 Mortgages R Us Appraisal and Credit Report Trust Account
Account No. 24557-08345 (T/A #1)

21 This account is used for depositing credit report fees and funding
22 check received from lenders. It was also used for disbursing
commission checks.

23
24 Mortgages R Us Appraisal and Credit Report Trust Account
Account No. 0343-317-016 (T/A #2)

25 This account was used for depositing appraisal credit report fees.

26 Mortgages R Us Real Estate Broker Trust Account
Account No. 24551-08343 (T/A #3)

27 This account is used for depositing earnest money deposits.

1 Mortgages R Us Real Estate Broker Trust Account
2 Account No. 0343-316-989 (T/A #4)

3 This account was used for depositing earnest money deposits.

4 Mortgages R Us Inc.

5 This account is the general operating account.

6 XII

7 The audit examination revealed that as of February 28, 1993,
8 T/A #1 had an overage of \$247.75. This overage consisted of
9 commissions earned as well as funds from another corporation, 1st
10 Residential Mortgage. This excess of funds over the aggregate
11 trust fund liability constitutes a trust fund overage that
12 violated Section 2833 of the Regulations. MORTGAGES also violated
13 Section 10176(e) of the Code by commingling with its own money the
14 money of others. Said conduct is cause under Section 10176(e) to
15 suspend or revoke the license and license rights of MORTGAGES
16 under the Real Estate Law.

17 XIII

18 At all times herein mentioned, MORTGAGES failed to
19 maintain complete columnar control records of the receipts and
20 disbursements of trust funds received and paid out of T/A #1 and
21 T/A #3. MORTGAGES violated Section 2831 of the Regulation by such
22 conduct.

23 XIV

24 At all times herein mentioned, MORTGAGES failed to
25 maintain a separate ledger for each beneficiary and transaction
26 for T/A #1 and T/A #3. MORTGAGES violated Section 2831.1 of the
27 Regulations by its failure to perform such acts,

XV

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2 As of February 17, 1993, Donald Wayne Hohman ("Hohman")
3 was not licensed by the Department as a real estate broker or as a
4 real estate salesperson who is employed under the license of a
5 broker. At all times material herein, Hohman was not covered by a
6 fidelity bond. On or about January 26, 1993, a Decision was
7 issued to Hohman, effective February 17, 1993, in Case No. H-24934
8 LA, revoking Hohman's broker license. At all times material
9 herein, Hohman was president of MORTGAGES. MORTGAGES violated
10 Section 2834 of the Regulations by allowing Hohman, an unbonded,
11 unlicensed person, to be a signatory on T/A #1 and T/A #3.

XVI

12 At all times material herein, MORTGAGES employed real
13 estate salesperson who prepared instruments which had a material
14 effect upon the rights and obligations of the principals
15 represented by MORTGAGES. MARTINEZ violated Section 2725 of the
16 Regulations by failing to initial and date such instruments
17 during the period of his supervision of MORTGAGES.

XVII

19 At all times material herein, MORTGAGES employed real
20 estate salesperson who prepared instruments which had a material
21 effect upon the rights and obligations of the principals
22 represented by MORTGAGES. PERUCH violated Section 2725 of the
23 Regulations by failing to initial and date such instruments
24 during the period of his supervision of MORTGAGES.

XVIII

26 At all times material herein, MORTGAGES failed to notify
27 the Department in writing of the employment of two salespersons.

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MORTGAGES violated Section 10161.8 and Section 2752 of the Regulations by so failing to notify the Department.

XIX

The audit examination also revealed that MORTGAGES negotiated and/or arranged loans funded by mortgage brokers, mortgage bankers and institutional lenders for a period from June 4, 1992, through July 20, 1992. During a period beginning in April, 1992, through July, 1992, Pratella was not licensed by the Department as a real estate broker or as a salesperson operating under the license of a real estate broker. Pratella violated Section 10130 of the Code by performing said acts which require a license when it was not licensed by the Department as a real estate broker or as a salesperson operating under the license of a real estate broker. MORTGAGES violated Section 10130 of the Code by performing said acts which require a license when it was not licensed by the Department as a real estate broker or as a salesperson operating under the license of a real estate broker.

XX

At all times material herein in the course of the above-described mortgage loan business, MORTGAGES solicited and negotiated with borrowers for loans secured by liens on real property. MORTGAGES violated Section 10240 of the Code in that it failed to provide Mortgage Loan Disclosure Statements to said borrowers when appropriate.

XXI

The audit examination also revealed that MORTGAGES employed real estate salespersons but failed to maintain broker-salesperson relationship agreements with said

1 salespersons. This conduct violates Section 2726 of the
2 Regulations and constitutes cause to suspend or revoke the
3 license and/or license rights of MORTGAGES under Section
4 10177(d) of the Code.

5 XXII

6 The conduct of MORTGAGES R US, INC., as alleged
7 hereinabove in Paragraphs XI through XXI, constitutes cause
8 for the suspension or revocation of all licenses and/or
9 license rights of the Respondent under Sections 10176(e) and
10 10177(d) of the Code.

11 XXIII

12 The conduct of Respondent JOSEPH PERUCH, in
13 allowing Respondent MORTGAGES to violated the above-described
14 provisions of the Code while acting as the designated officer
15 of MORTGAGES, constitutes a failure to exercise reasonable
16 supervision and control of the activities of MORTGAGES for
17 which a real estate license is required, and is cause for the
18 suspension or revocation of the licenses and/or licensing
19 rights of PERUCH under Section 10177(h) of the Code.

20 XXIV

21 The conduct of Respondent CARLOS MIGUEL MARTINEZ,
22 in allowing Respondent MORTGAGES to violated the above-
23 described provisions of the Code while acting as the
24 designated officer of MORTGAGES, constitutes a failure to
25 exercise reasonable supervision and control of the activities
26 of MORTGAGES for which a real estate license is required, and
27 is cause for the suspension or revocation of the licenses

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and/or licensing rights of CARLOS MIGUEL MARTINEZ under
Section 10177(h) of the Code.

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 all
licenses and/or license rights of the Respondents under the Real
Estate Law and for such other and further relief as may be proper
under applicable provisions of law.

Dated at Santa Ana, California
this 19th day of January, 1995.

THOMAS MC CRADY
Deputy Real Estate Commissioner

cc: Mortgages R Us, Inc.
Joseph Peruch
Carlos Miguel Martinez
SACTO
ML