

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6
7

FILED
JUN 26 1997
DEPARTMENT OF REAL ESTATE

By *Lucie A. Zan*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-3278 SAC
12 ROSEMARY MOLINA BURPO,) STIPULATION AND
13 Respondent.) AGREEMENT IN
14) SETTLEMENT AND ORDER

15 It is hereby stipulated by and between ROSEMARY MOLINA
16 BURPO (hereinafter "Respondent") and the Complainant, acting by
17 and through David A. Peters, Counsel for the Department of Real
18 Estate, as follows for the purpose of settling and disposing of
19 the Accusation filed on April 16, 1997, in this matter:

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

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FILE NO. H-3278 SAC

- 1 -

STIPULATION OF
ROSEMARY MOLINA BURPO

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

5 3. On April 24, 1997, Respondent filed a Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that she
10 understands that by withdrawing said Notice of Defense she will
11 thereby waive her right to require the Commissioner to prove the
12 allegations in the Accusation at a contested hearing held in
13 accordance with the provisions of the APA and that she will waive
14 other rights afforded to her in connection with the hearing such
15 as the right to present evidence in defense of the allegations in
16 the Accusation and the right to cross-examine witnesses.

17 4. Respondent, pursuant to the limitations set forth
18 below, hereby admits that the factual allegations in Paragraphs II
19 through IX of the Accusation filed in this proceeding are true and
20 correct and the Real Estate Commissioner shall not be required to
21 provide further evidence to prove such allegations.

22 5. It is understood by the parties that the Real
23 Estate Commissioner may adopt the Stipulation and Agreement as his
24 decision in this matter thereby imposing the penalty and sanctions
25 on Respondent's real estate license and license rights as set
26 forth in the below "Order". In the event that the Commissioner in
27 his discretion does not adopt the Stipulation and Agreement in

1 B. A restricted real estate broker license shall be
2 issued to Respondent pursuant to Business and Professions Code
3 Section 10156.5, if Respondent makes application therefor and pays
4 to the Department the appropriate fee for said license within
5 ninety (90) days from the effective date of this Order.

6 C. The restricted license issued to Respondent shall
7 be subject to all the provisions of Section 10156.7 of the
8 Business and Professions Code and to the following limitations,
9 conditions and restrictions imposed under authority of Section
10 10156.6 of said Code:

11 (1) The license shall not confer any property right in
12 the privileges to be exercised, and the Real Estate
13 Commissioner may, by appropriate order suspend the
14 right to exercise any privileges granted under the
15 restricted license in the event of:

16 (a) The conviction of Respondent (including a plea
17 of nolo contendere) to a crime which bears a
18 significant relation to Respondent's fitness
19 or capacity as a real estate licensee; or

20 (b) The receipt of evidence that Respondent has
21 violated provisions of the California Real
22 Estate Law, Subdivided Lands Law, Regulations
23 of the Real Estate Commissioner or conditions
24 attaching to the restricted license.

25 (2) Respondent shall not be eligible to apply for
26 issuance of an unrestricted real estate license nor
27 the removal of any of the conditions, limitations

1 or restrictions attaching to the restricted license
2 until one (1) year has elapsed from the date of
3 issuance of a restricted license to Respondent.

4 D. Respondent shall, prior to the issuance of any
5 restricted real estate broker license, present evidence
6 satisfactory to the Real Estate Commissioner that she has, since
7 the most recent issuance of an original or renewal real estate
8 license, taken and successfully completed the continuing education
9 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
10 for renewal of a real estate license. If Respondent fails to
11 satisfy this condition, the Commissioner may order the suspension
12 of the restricted license until Respondent presents such evidence.
13 The Commissioner shall afford Respondent the opportunity for a
14 hearing pursuant to the Administrative Procedure Act to present
15 such evidence.

16 E. Respondent shall, within six (6) months from the
17 effective date of the restricted license, take and pass the
18 Professional Responsibility Examination administered by the
19 Department including the payment of the appropriate examination
20 fee. If Respondent fails to satisfy this condition, the
21 Commissioner may order the suspension of the restricted license
22 until Respondent passes the examination.

23 F. Respondent shall, prior to the issuance of the
24 restricted license and as a condition of the issuance of said
25 restricted license, submit proof satisfactory to the Commissioner
26 of payment of restitution in the amount of \$150.00 to Erline E.
27 Ickes, c/o Shirley Smith.

1 G. Any restricted real estate broker license issued to
2 Respondent may be suspended or revoked for a violation by
3 Respondent of any of the conditions attaching to the restricted
4 license.

5 5/20/97
6 _____
7 DATED

David A. Peters

DAVID A. PETERS, Counsel
DEPARTMENT OF REAL ESTATE

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

18 5/22/97
19 _____
20 DATED

Rosemary Molina Burpo

ROSEMARY MOLINA BURPO
Respondent

* * *

22 The foregoing Stipulation and Agreement for Settlement
23 is hereby adopted by the Real Estate Commissioner as Decision and
24 Order and shall become effective at 12 o'clock noon on
25 July 17, 1997.

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IT IS SO ORDERED

6/10/97

JIM ANTT, JR.
Real Estate Commissioner

Jim Antt, Jr.

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

Lauriel Z...

In the Matter of the Accusation of

ROSEMARY MOLINA BURPO,

Case No. H-3278 SAC

OAH No. N1997050019

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 the
Office of Administrative Hearings, 501 J Street, Suite 220 (Second
Floor Hearing Rooms), Sacramento, CA 95814

on Tuesday, June 3, 1997, at the hour of 9:00 AM,
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: May 7, 1997

By *David A. Peters*
DAVID A. PETERS *Counsel*

1 DAVID A. PETERS, Counsel
2 Department of Real Estate
3 P. O. Box 187000
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FILED
APR 16 1997
DEPARTMENT OF REAL ESTATE

By *Lucia L. Ziss*

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ROSEMARY MOLINA BURPO,) NO. H-3278 SAC
13 Respondent.) ACCUSATION

14
15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ROSEMARY MOLINA BURPO (hereinafter "Respondent"), is
18 informed and alleges as follows:

19 I

20 The Complainant, Charles W. Koenig, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 At all times herein mentioned, Respondent is presently
25 licensed and/or has license rights under the Real Estate Law
26 (Part 1 of Division 4 of the Business and Professions Code)
27 (hereinafter "Code"), as a real estate broker.



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III

At various times herein mentioned, Respondent was performing acts requiring a real estate license for or in expectation of a compensation.

IV

On or about April 4, 1995, Gustavo Noriega, Carlos Noriega and Antonia del Torro (hereinafter "the Buyers") submitted an offer, by and through Respondent, to purchase certain real property commonly known as 5621 44th Avenue, Sacramento, California (hereinafter "the Subject Property") controlled by Shirley Smith and Kathy Dallosta under a power of attorney for their mother Erline E. Ickes (hereinafter "the Seller").

V

Said offer provided for possession of the Subject Property by the Buyers to take place upon the close of escrow or at an earlier time by written agreement between the Buyers and Seller.

VI

On or about April 7, 1995, the Seller made a counter-offer on the purchase of the Subject Property incorporating the Buyers' original offer and adding additional terms.

VII

On or about April 10, 1995, the Buyers accepted said counter-offer.

VIII

On or about June 3, 1995, prior to the close of escrow on the sale of the Subject Property, Respondent without the

1 authorization or knowledge of the Sellers and contrary to the
2 terms of the agreement gave the Buyers possession of the Subject
3 Property.


4 IX

5 On or about June 13, 1995, escrow closed on the sale of
6 the Subject Property.

7 X

8 The acts and omissions of Respondent set forth above
9 constitute fraud or dishonest dealing in violation of Section
10 10176(i) and/or 10177(j) of the Code. In the alternative, the
11 acts and omissions of Respondent set forth above constitute
12 negligence or incompetence in performing acts for which a real
13 estate license is required, and are cause under Section 10177(g)
14 of the Code for suspension or revocation of all licenses and
15 license rights of Respondent under the Real Estate Law.

16 WHEREFORE, Complainant prays that a hearing be conducted
17 on the allegations of this Accusation and that upon proof thereof,
18 a decision be rendered imposing disciplinary action against all
19 licenses and license rights of Respondent under the Real Estate
20 Law (Part 1 of Division 4 of the Business and Professions Code),
21 and for such other and further relief as may be proper under other
22 provisions of law.

23
24 
25 CHARLES W. KOENIG
26 Deputy Real Estate Commissioner

26 Dated at Sacramento, California
27 this 8th day of April, 1997.