

FILED

AUG 11 2010

DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

RAM KRISHNA NAIDU,

Respondent.

No. H-8687 SF

ORDER DENYING REINSTATEMENT OF LICENSE

On January 6, 2005, a Decision was rendered in Case No. H-8687 SF revoking the real estate salesperson license of Respondent effective March 4, 2005, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on March 4, 2005. Respondent's restricted real estate salesperson license was suspended indefinitely on November 3, 2005 for failure to take and pass the Professional Responsibility Examination within six months after the issuance of Respondent's restricted license.

On May 13, 2009, Respondent petitioned for reinstatement of said real estate salesperson license, and the Attorney General of the State of California has been given notice of the filing of said petition.

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1 The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State*
2 *Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and
3 integrity than an applicant for first time licensure. The proof must be sufficient to overcome the
4 prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

5 I have considered the petition of Respondent and the evidence submitted in
6 support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has
7 undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate
8 salesperson license at this time.

9 The Department has developed criteria in Section 2911 of Title 10, California
10 Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for
11 reinstatement of a license. Among the criteria relevant in this proceeding are:

12 Regulation 2911(j) Discharge of, or bona fide efforts toward discharging,
13 adjudicated debts or monetary obligations to others.

14 Other than obtaining a bankruptcy discharge in June 2010, no information has
15 been provided by Respondent that he has satisfied his debts or monetary obligations.

16 Regulation 2911(n) Change in attitude from that which existed at the time of the
17 conduct in question as evidenced by any or all of the following:

18 (1) Testimony of applicant.

19 Respondent has not replied to Department requests for further information about
20 civil lawsuits in which he was a defendant, and which he did not disclose in his application.

21 (2) Evidence from family members, friends or other persons familiar with
22 applicant's previous conduct and with his subsequent attitudes and behavioral patterns.

23 Respondent has provided no letters of recommendation to support his contention
24 that he has been rehabilitated.

25 Given the violations found and the fact that Respondent has not established that
26 Respondent has satisfied Regulations 2911(j), (n)(1) and (2), I am not satisfied that Respondent
27 is sufficiently rehabilitated to receive a real estate salesperson license.

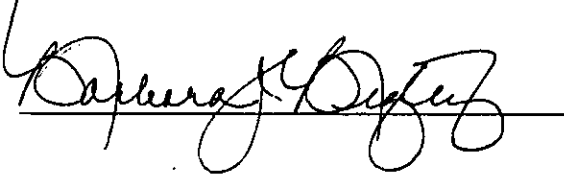
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NOW, THEREFORE, IT IS ORDERED that Respondent's petition for
reinstatement of Respondent's real estate salesperson license is denied.

This Order shall become effective at 12 o'clock noon on **SEP - 1 2010**

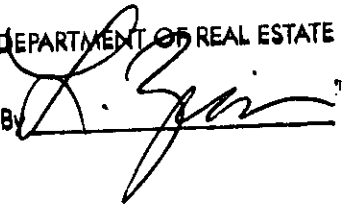
IT IS SO ORDERED 8/7/2010

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

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FILED
NOV -7 2005
DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H- H-8687 SF
RAM KRISHNA NAIDU,)
Respondent.)

ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: Respondent RAM KRISHNA NAIDU

On March 4, 2005, a restricted real estate salesperson license was issued by the Department of Real Estate to Respondent RAM KRISHNA NAIDU (hereinafter "Respondent"), on the terms, conditions and restrictions set forth in the Real Estate Commissioner's Order of January 6, 2005 in Case No. H-8186 SF. The Order became effective March 4, 2005. The Order of January 6, 2005 granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and

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1 restrictions imposed under authority of Section 10156.6 of said
2 Code.

3 Among those terms, conditions and restrictions,
4 Respondent was required to take and pass the Professional
5 Responsibility Examination (hereinafter "the condition") within
6 six months after March 4, 2005, the date the restricted license
7 was issued. The Commissioner has determined that as of
8 October 6, 2005, Respondent has failed to satisfy this
9 condition, and as such, Respondent is in violation of Section
10 10177(k) of the Business and Professions Code.

11 NOW, THEREFORE, IT IS ORDERED under authority of
12 Section 10156.7 of the Business and Professions Code of the
13 State of California that the restricted real estate salesperson
14 license heretofore issued to Respondent, and the exercise of any
15 privileges thereunder, is hereby suspended until such time as
16 Respondent provides proof satisfactory to the Department of
17 compliance with the "condition" referred to above, or pending
18 final determination made after hearing (see "Hearing Rights" set
19 forth below). Furthermore, Respondent has no right to renew
20 Respondent's restricted license if this condition is not
21 satisfied by the date Respondent's restricted license expires.

22 IT IS FURTHER ORDERED that all license certificates
23 and identification cards issued by the Department which are in
24 the possession of Respondent be immediately surrendered by
25 personal delivery or by mailing in the enclosed, self-addressed
26 envelope to:

27 ///

1 Department of Real Estate
2 Attn: Flag Section
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 HEARING RIGHTS: Pursuant to the provisions of Section
6 10156.7 of the Business and Professions Code, Respondent has the
7 right to a hearing to contest the Commissioner's determination
8 that Respondent is in violation of Section 10177(k). If
9 Respondent desires a hearing, Respondent must submit a written
10 request. The request may be in any form, as long as it is in
11 writing and indicates that Respondent wants a hearing. The
12 Department will not be obligated or required to provide
13 Respondent with a hearing unless a written request for a
14 hearing, signed by or on behalf of Respondent, is delivered or
15 mailed to the Department at the following address:

16 Department of Real Estate
17 Attn: Legal Section
18 P. O. Box 187000
19 Sacramento, CA 95818-7000

20 This Order shall be effective immediately.

21 DATED: 11-3-05 JEFF DAVI
22 _____ Real Estate Commissioner

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FILED
JUN - 2 2005

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-8687 SF
RONALD PALANA SANTOS,)	OAH No. N-2004070341
Respondent.)	

ORDER DENYING RECONSIDERATION

On April 28, 2005, a Decision was rendered in the above-entitled matter. The Decision is to become effective June 2, 2005.

On May 13, 2005, Respondent RONALD PALANA SANTOS petitioned for reconsideration of the Decision of April 28, 2005.

I have given due consideration to the petition of Respondent RONALD PALANA SANTOS. I find no good cause to reconsider the Decision of April 28, 2005, and reconsideration is hereby denied.

IT IS HEREBY ORDERED 6-1-05

JEFF DAVI
Real Estate Commissioner

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FILED
JUN - 2 2005

DEPARTMENT OF REAL ESTATE

By *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H-8687 SF
)	
KASEEM MOHAMMADI,)	OAH No. N-2004070341
)	
Respondent.)	

ORDER DENYING RECONSIDERATION

On April 28, 2005, a Decision was rendered in the above-entitled matter. The Decision is to become effective June 2, 2005.

On May 13, 2005, Respondent KASEEM MOHAMMADI petitioned for reconsideration of the Decision of April 28, 2005.

I have given due consideration to the petition of Respondent KASEEM MOHAMMADI. I find no good cause to reconsider the Decision of April 28, 2005, and reconsideration is hereby denied.

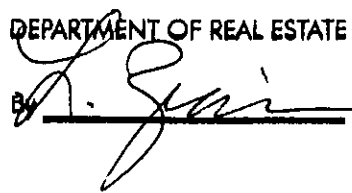
IT IS HEREBY ORDERED 6-1-05

JEFF DAVI
Real Estate Commissioner

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FILED
MAY 19 2005

DEPARTMENT OF REAL ESTATE
BY: 

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusatin of)	No. H-8687 SF
)	
RONALD PALANA SANTOS AND)	OAH No. N-2004070341
KASEEM MOHAMMADI,)	
)	
Respondent.)	

ORDER STAYING EFFECTIVE DATE

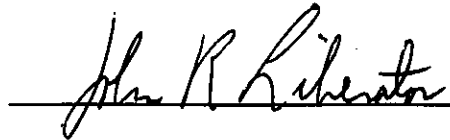
On April 28, 2005, a Decision was rendered in the above-entitled matter to become effective May 23, 2005.

IT IS HEREBY ORDERED that the effective date of the Decision of the Real Estate Commissioner of April 28, 2005, is stayed for a period of ten (10) days.

The Decision of the Real Estate Commissioner of April 28, 2005, shall become effective at 12 o'clock noon on June 2, 2005.

DATED: May 19, 2005

JEFF DAVI
Real Estate Commissioner



BY: **John R. Liberato**
Chief Deputy Commissioner

FILED
MAY - 3 2005

DEPARTMENT OF REAL ESTATE
[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
)	NO. H-8687 SF
RONALD PALANA SANTOS AND)	
KASEEM MOHAMMADI,)	OAH NO. N-2004070341
)	
Respondents.)	
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DECISION

The Proposed Decision dated April 15, 2005, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

This Decision shall become effective at 12 o'clock noon
on MAY 23 2005.

IT IS SO ORDERED

JEFF DAVI
Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of:

AZUCENA SANDY ZIPAGAN,
RONALD PALANA SANTOS,
GENE RELUCANO BALGOS,
MELVIN C. BAUTISTA,
SENH C. DUONG,
PERRY DEAN FERNANDEZ,
RAYMOND LEE
KASEEM MOHAMMADI
RAM KRISHNA MAIDU, AND
JASON P. SANTOS

Respondents.

Case No. H-8687 SF

OAH No. N2004070341

PROPOSED DECISION

Administrative Law Judge Cheryl R. Tompkin, State of California, Office of Administrative Hearings heard this matter on January 18-21, 2005, in Oakland, California.

James Beaver, Counsel, represented the complainant Janice Waddell.

J. Anne Rawlins, Attorney at Law, 1007 7th Street, Suite 314, Sacramento, California 95814, represented respondent Ronald Palana Santos, who was present at hearing. There was no appearance by or on behalf of respondent Kaseem Mohammadi.¹ The matter proceeded as a default with respect to respondent Kaseem Mohammadi. Tentative settlements were reached between all other respondents and the Department of Real Estate (Department) prior to hearing.

The matter was submitted on January 21, 2005.

FACTUAL FINDINGS

1. Official notice is taken that complainant Janice Waddell made the Accusation in her official capacity as a Deputy Real Estate Commissioner of the State of California.

¹ Respondent Kaseem Mohammadi did not file a Notice of Defense or otherwise contest the Accusation.

2. Respondent Azucena Sandy Zipagan (Zipagan), individually and doing business as First Priority Funding and as Sand Dale Realty & Financial Services, is presently licensed and/or has license rights as a real estate broker under the Real Estate Law. Zipagan received her broker's license on May 15, 1995. Zipagan's license will expire on May 14, 2007, unless renewed.²

3. Respondent Ronald Palana Santos (Santos), individually and doing business as Community One Financial Services, is presently licensed and/or has license rights under the Real Estate Law as a real estate broker. Santos received his broker's license on September 11, 2001. The license will expire on September 10, 2005, unless renewed.

Background

4. From January 6, 2001, to September 10, 2001, Santos was licensed as a real estate salesperson in the employ of respondent Zipagan. Zipagan met Santos in approximately April 2000.³ In May 2000, after several meetings, Zipagan and Santos decided to go into business together. Zipagan agreed to open a separate office, First Priority Funding (FPF) dedicated solely to loan brokerage. Santos was to manage the office. At the time Santos did not have a real estate license. Part of the agreement was that Santos would obtain a real estate salesperson license, and possibly a broker's license. Santos obtained his real estate salesperson license in January 2001.

5. Zipagan had some familiarity with loan brokerage prior to going into business with Santos. She had operated a real estate brokerage since she was first licensed as a broker in 1995. However, prior to April 2000 she only did eight to ten mortgage broker transactions per year and she did not employ any loan agents. She never had more than two to three part-time real estate sales associates working for her at any one time. Typically she only originated loans for sales in which she was involved. Many of the loan transactions related to the sale of care facilities.⁴ The balance of Zipagan's loan transactions related to residential real estate sales.

6. Prior to going into business with Zipagan, Santos worked at Ameriquest Mortgage Company and Hilltop Financial Services, both of which are agencies that engage in loan brokering and direct lending. Santos was employed at Ameriquest approximately three years. He started as an account executive and was promoted to branch manager before he left to work for Hilltop Financial Services. Santos worked at Hilltop one and one-half-months, as a

² Respondent Zipagan and the Department entered into a stipulated settlement prior to hearing. Thus, although respondent Zipagan was present at hearing as a witness, she did not appear as a party.

³ Zipagan met Santos through Santos' mother, who was an acquaintance of Zipagan.

⁴ At all times pertinent to this proceeding, Zipagan operated and managed three care facilities for the elderly and disabled, in addition to her real estate brokerage business. She also provided training regarding care facilities to others.

broker trainee. It was Zipagan's understanding that Santos was a seasoned loan agent since he had worked at both Ameriquest and Hilltop. Zipagan thus relied heavily upon Santos' knowledge of the loan brokerage business in operating FPF. However, as the broker she was clearly responsible for all loan transactions occurring under her license.

7. Zipagan opened FPF, with Santos as manager, in May or June 2000.⁵ During the time period relevant to this proceeding, April 1, 2001, to October 31, 2001, FPF was actively engaged in mortgage loan activities. FPF, through its staff, and for compensation, solicited, arranged, negotiated, processed and consummated loans between borrowers and lenders that were secured directly or collaterally by liens on real property. Under Santos' and Zipagan's direction, leads for potential loan refinances were generated by "telemarketers" hired by Santos and/or Zipagan. A file was established for each lead generated. Santos or Zipagan would grade each loan,⁶ determine to which lender to submit the loan, and determine the documentation necessary for the loan. The "telemarketer" (i.e., loan agent) responsible for generating the lead was also responsible for obtaining the documentation required by the lender. Escrows were set up for each loan file. Santos selected the escrow company used by FPF, and was responsible for getting documents to the title company.

8. As compensation for managing FPF, Santos received 100 percent of the commission generated on every closed loan file that originated during his tenure, less a broker fee of \$1,075. The fee of the loan processor and the commissions of the telemarketers were paid from Santos' commissions. Santos had a separate oral commission agreement with each telemarketer. The percentage commission each telemarketer received varied. None of the telemarketers had a written employment agreement with FPF.

Santos calculated the commission owed each telemarketer and filled in the amount on the commission checks. Zipagan signed the checks. No deductions were taken from the commission checks for workers compensation insurance, unemployment insurance, social security taxes or state or federal taxes. According to Zipagan, no deductions were taken because all of the telemarketers were considered independent contractors. However, it is well established, that for purposes of administration of the real estate law, a salesperson is an employee and agent of the broker. (*Grubb & Ellis Co. v. Spengler* (1983) 143 Cal.App.3d 890, 895 [broker liable for tortious acts of salespeople under doctrine of respondeat superior]; *Gipson v. Davis Realty Co.* (1963) 215 Cal.app.2d 190, 206-207 [salesperson an employee of broker by virtue of statutory enactment].)

⁵ Zipagan testified that between May or June 2000, when FPF opened, and January 2001, when Santos obtained his real estate salesperson license, she was frequently at FPF. Zipagan was there primarily to oversee operations and answer questions since Santos was not yet licensed. However, Santos was actually managing the office.

⁶ Grading is the process of evaluating the initial information regarding a borrower to determine the appropriate rate or programs available to the borrower.

9. As manager, Santos had authority to hire and fire employees without approval from Zipagan. He was also responsible for determining each employee's job duties and for supervision of all employees hired. Santos hired virtually all of the telemarketers working at FPF. Initially, Santos hired his brothers, close friends and people he had worked with previously. These individuals then recruited others to work for FPF. Zipagan was not aware who had been hired until commission checks required her signature. Santos' first hires were Carly Alejandrino, the loan processor, and his brother Gilbert Santos. Gilbert Santos was hired to solicit loans. Gilbert Santos did not have a real estate license and never obtained one during the course of his employment at FPF. After approximately three months, Santos hired several additional people as telemarketers, including Jan Showkat and Ram Krishna Naidu. Naidu did not have a real estate license and did not obtain one until May 2, 2002.

10. After Santos received his salesperson license in January 2001, he brought in more individuals to solicit loan applications. Between January 2001 and September 2001 Santos hired Richard Gerald Moore, Michael J. Medina, Alain Wesley Johnson, Stella Rodriguez and Oscar Uribe. None of these individuals had real estate licenses at the time of hire and none ever obtained licenses during the course of their employment at FPF. Respondent also hired his brother Jason Santos, Gene Balagos, Melvin Bautista, Senh Duong, Perry Fernandez, Raymond Lee, Kaseem Mohammadi and Robert Espiritu. None of these individuals had real estate licenses at the time of hire, but all of these individuals obtained real estate licenses after leaving FPF. Many went to work for Santos at his new company, Community One Financial Services, when Santos left FPF.

11. At hearing Zipagan acknowledged that she was aware that many of the individuals hired by Santos were not licensed. However, she claimed Santos had advised her that these individuals were in the process of becoming licensed.

Unlicensed Mortgage Loan Activities

Kaseem Mohammadi

12. Between April 1, 2001, and October 31, 2001, respondent Kaseem Mohammadi negotiated and arranged at least nine loans secured by liens on real property,⁷ including a \$260,525 loan from Aames Homes Loan to Dale Long. The loan was secured by a lien on Long's residence located at 4218 West Street, Oakland, California.

The loan process originated with a cold call from Abdullah Hakimi to Long. Hakimi promised Long an interest rate of between four and six percent. Long decided to apply for a loan and Hakimi arranged for an appraiser to visit Long's home. In early September 2001, Long received a package from Aames Funding Corporation which included an estimate of

⁷ He earned at least \$64,315 in commissions.

closing costs and showed the fees Long would be paying to Aames and FPF. Long never received a good faith estimate of costs or anything in writing from FPF prior to receipt of the package from Aames.

In mid-September 2001 Hakimi brought the loan documents to Long's home for signature. This was the first time Long had met Hakimi in person. Hakimi was accompanied by Kaseem Mohammadi. Mohammadi provided Long with a FPF business card that listed his title as "Mortgage Consultant," and he did all the talking. The loan documents contained an interest rate of 7.4 percent, which was higher than the rate quoted by Hakimi. Mohammadi told Long the rate had gone up because of one late mortgage payment. Long decided to go forward with the loan. He reviewed the loan papers with Hakimi and Mohammadi, including a Borrowers Estimated Closing Statement. The statement indicated Long would receive approximately \$24,000 from the refinance. Long signed the loan papers at this meeting. No notary was present.⁸

Hakimi subsequently mailed Long a Borrowers Final Closing Statement dated October 2, 2001, and a check for \$8,948. The Final Closing Statement indicated a payout of \$5,999.99 to Abdullah Hakimi.⁹ Long was never advised of this additional fee and had never authorized such payment. Long called Hakimi and Mohammadi to question the fee and/or rescind the loan, but they never returned his calls. Long contacted the title company, but was told the fee was between him and FPF. Long was never able to obtain a refund of the additional \$5,999.99 fee from FPF.

Approximately a year after obtaining the loan from FPF, Long was contacted by Department investigator Maxine Risley and had an opportunity to review his escrow loan file. The escrow file contained a document signed by "Dale E. Long" authorizing payment of \$5,999.99 to Hakimi. Long denies the signature on the document is his. The typed loan application, which contains an estimate of \$12,999.38 in closing costs, also bears the signature "Dale E. Long." Long denies that it is his signature. The typed loan application indicates that Long was interviewed by Ronald Santos and bears what purports to be Santos' signature. Long denies he ever had any contact with Santos. Long's testimony was very credible.

FPF received a gross commission check of \$16,892.99 for services provided on the \$260,525 Long loan. Mohammadi received a commission of \$6,227.19. Abdullah Hakimi received \$6,227.19. Respondent Santos received \$3,113.59. Zipagan received \$1,075. Alejandrino received \$250.

13. Mohammadi also negotiated and arranged a \$168,000 loan from New Century Mortgage to Gwen McWilliams. The loan was secured by McWilliams's residence located at 1174 58th Avenue, Oakland, California. The loan process originated with a cold call from

⁸ The borrower's signature on the deed of trust and other loan documents must be notarized.

⁹ A prepayment penalty of \$8,872.94 on Long's prior loan and \$500 to cover a refuse lien were also withheld.

Abdullah Hakimi to McWilliams. Hakimi quoted McWilliams a lower interest rate than any of the other lenders who had contacted her. A meeting was scheduled at McWilliams' home. Kaseem Mohammadi accompanied Hakimi to the meeting and did most of the talking. After several meetings at her home, at which rates and loan conditions were discussed, McWilliams signed loan papers.

McWilliams never received any written disclosures or a good faith estimate of closing costs from FPF and she never received copies of what she had signed from FPF. She did receive disclosures from New Century Mortgage and the title company after the loan closed. The title company closing statement indicated McWilliams was to receive \$6,900 at closing. Williams never received any payout. Her mother was ill at the time and she did not realize she had not received her payout until August 12, 2002, when she was reviewing her loan file with Department investigator Risley.

Investigator Risley also provided Williams with an opportunity to review her escrow loan file. The escrow file contained a Final Settlement Statement, a Borrower's Final Closing Statement, and a document signed by "Gwendolyn Williams" authorizing payment of \$7,999.95 to FPF. None of these documents were ever provided to Williams by FPF, the title, company or any other source. At hearing McWilliams credibly denied that the signature on the document authorizing payment of \$7,999.95 was hers. McWilliams also denied that the \$7,999.95 was ever disclosed on any of the loan documents or that she ever authorized such payment. McWilliams explained that she would never have knowingly paid two loan fees, which is what occurred. McWilliams paid a \$6,720 "loan origination fee" in addition to the \$7,999.95 fee to FPF. McWilliams has never received reimbursement of the \$7,995.99.

McWilliams also testified that the signature "Gwendolyn McWilliams" on the typed loan application, which contains an estimate of \$10,745 in closing costs, is not her signature. The typed loan application indicates that McWilliams was interviewed by Ronald Santos and bears what purports to be Santos' signature. McWilliams denies she ever had any contact with Santos. McWilliams's testimony was very credible.

FPF received a gross commission check of \$16,494.95 for services provided on the \$168,000 McWilliams' loan. Mohammadi received a commission of \$5,887.98, plus a \$450 appraisal fee. Abdullah Hakimi received \$5,887.98. Respondent Santos received \$2,943.99. Zipagan received \$1,075. Alejandrino received \$250.

14. Mohammadi negotiated and arranged a \$326,700 loan from Aames Homes Loan to Paula Maes-Bueno. The loan was secured by Maes-Bueno's residence located at 18848 Times Avenue, San Lorenzo, California. In her declaration, Maes-Bueno states that Abdullah Hakimi (who initially contacted Maes-Bueno by telephone) and Mohammadi (who accompanied Hakimi to Maes-Bueno's home) were her only contacts from FPF. She complains that although Hakimi and Mohammadi promised to request impounds for taxes and insurance, no request was ever made, which resulted in cancellation of her insurance. Maes-Bueno also states that Hakimi and Mohammadi never provided her with a good faith estimate of closing costs. FPF received a gross commission check of \$4,969.08 for services provided on the Maes-

Bueno loan. Mohammadi received a commission of \$1,547.63, plus a \$350 appraisal fee reimbursement. Abdullah Hakimi received \$1,547.63. Respondent Santos received \$773.81. Zipagan received \$500. Alejandrino received \$250.

15. Mohammadi did not have a real estate license at any time during his employment with FPF. He did not receive his salesperson license until December 10, 2001. After receiving his license, Mohammadi went to work for respondent Santos at Community One Financial Services.

Robert Espiritu

16. Robert Espiritu was hired by Santos to work at FPF in approximately March 2001. Between April 1, 2001, and October 31, 2001, Robert Espiritu arranged at least nine loans secured by liens on real property on behalf of FPF. He earned in excess of \$45,837 in commission on the nine loans.¹⁰

17. One of the loans negotiated and arranged by Espiritu was a \$303,000 loan from Washington Mutual to Yvonne Landa. The loan was secured by Landa's residence located at 1420 Canton Drive, Milpitas, California. Landa contacted FPF in September 2001 after receiving a letter in the mail asking if she wanted to refinance her first loan. She spoke with Espiritu. Espiritu initially visited Landa at her home to bring the necessary paperwork for a refinance and to view the property. He later sent an appraiser to appraise Landa's property. Espiritu visited Landa a second time to obtain her financial documents (e.g., tax returns, W-2s, etc.) and advise her what her monthly payments would be under the new loan. He visited Landa a third time to have her sign the closing papers. Espiritu was accompanied by a notary, and Landa signed the loan papers during the third visit.

Landa testified that every document she signed relating to her loan transaction was signed at her home. She also testified that Espiritu was the only person from FPF with whom she ever had contact. She never met or spoke with Santos. However, on the September 20, 2001, loan application bearing Landa's signature, Ronald Santos is identified as the interviewer. The application bears what purports to be Santos' signature.

FPF received a gross check of \$10,765 from escrow for the services provided by FPF on the Landa loan. Espiritu received \$7,622 (\$7,272 as earned commission plus \$350 for an appraisal fee which he advanced to Landa). Santos received \$1818. Zipagan received \$1,075. Carly Alejandro received \$250.

¹⁰ Evidence submitted at hearing indicates that between March and June 2001 Espiritu received additional compensation in excess of \$27,429 from FPF as commissions on closed loans.

18. Espiritu also negotiated and arranged a \$165,000 loan from Accubanc Mortgage to Joan Burt. The loan was secured by Burt's residence located at 353 Maud Avenue, San Leandro, California. The loan application indicates Burt was interviewed by respondent Ronald Santos. Espiritu received a commission of \$6,809.40 on the \$165,000 loan.

19. Espiritu worked for FPF from approximately March 2001 to July 2001. He would cold call potential borrowers, fill out the preliminary loan application and set up appointments. However, he was always accompanied by another telemarketer when he presented a loan proposal, usually Gilbert Santos or Melvin Bautista. Neither Espiritu, Gilbert Santos or Bautista possessed a real estate salesperson license at the time. Espiritu did not obtain a real estate salesperson license until June 22, 2004.

Alain Johnson

20. Between April 1, 2001, and October 31, 2001, Alain Johnson negotiated and arranged at least four loans secured by liens on real property, including a \$364,000 loan from Long Beach Mortgage to Terrie Kruger.¹¹ The loan was secured by Kruger's residence located at 7860 Church Street, Gilroy, California. FPF received a gross commission check of \$10,525 for services provided on the Kruger loan. Johnson received a commission of \$6370. Santos received \$2,730. Zipagan received \$1,075. Alejandrino received \$350.

Michael Medina

21. Between April 1, 2001, and October 31, 2001, Michael Medina negotiated and arranged at least two loans secured by liens on real property, including a \$273,000 loan from Accubanc Mortgage to Peggy Ramirez.¹² The loan was secured by Ramirez's residence located at 5487 Shawdownhurst Court, San Jose, California.

In August or September 2001 Ramirez was referred to Medina by a friend when Ramirez expressed an interest in refinancing her home loan. Medina visited Ramirez at her home several times during the course of the loan. The first time he came alone. The second time, he was accompanied by Ram Naidu. Naidu "ran the numbers" and Ramirez agreed to the loan. The third time, Naidu came to Ramirez's home alone, and brought papers for her to sign. During this visit Naidu asked Ramirez for a personal check for \$5,666. He told her she would receive the money back. The check was payable to FPF. The check was cashed. It is unclear from the evidence whether Ramirez was ever reimbursed for the check. Nothing on the Good Faith Estimate provided by FPF or the Accubanc lender disclosure statement indicated Ramirez was required to pay FPF additional fees. Ramirez signed the loan papers during a visit by Naidu. No notary ever witnessed her signature.

¹¹ Johnson earned in excess of \$20,500 in commissions on the loans.

¹² Medina earned \$10,989 in commissions on the loans.

FPF received a gross commission check of \$18,811.42 for services provided on the \$273,000 Ramirez loan. Medina received a commission of \$6,994.57. Santos received \$6,994.57. Zipagan received \$1,075. Alejandrino received \$250.

Medina and Naidu were the only persons from FPF with whom Ramirez had contact. However, Ramirez's typed (but unsigned) loan application indicates that she was interviewed by respondent Santos. Ramirez denies she was interviewed by or ever met Santos during the loan process.

Richard Moore

22. Between April 1, 2001, and October 31, 2001, Richard Moore negotiated and arranged at least three loans secured by liens on real property,¹³ including a \$228,750 loan from Downey Savings to Julius Ferrer. The loan was secured by Ferrer's residence located at 65 Silcreek Drive, San Jose, California. Moore met with Ferrer at least three times to discuss rates and points, obtain Ferrer's financial documentation and sign paperwork. The meetings were held in the office of Ferrer's realtor, who was a friend of Moore. Ferrer also discussed details of the loan over the telephone with Moore. Moore was the only person from FPF with whom Ferrer had contact. Moore did not provide Ferrer with a Good Faith Estimate of closing costs or a mortgage loan disclosure statement.

FPF received a gross commission check of \$8,073.44 for services provided on the Ferrer loan. Moore received a commission of \$5,118.75. Santos received \$1,279.69. Zipagan received \$1,075. Alejandrino received \$250.

Stella Rodriguez

23. Between April 1, 2001, and October 31, 2001, Stella Rodriguez negotiated and arranged at least 16 loans secured by liens on real property.¹⁴ One such loan was a \$142,000 loan from Long Beach Mortgage to Norman Davis. The loan was secured by his residence located at 325 Meadow Circle, Greenfield, California. FPF records indicate a \$1,500 demand payment was made to Rodriguez in addition to the loan origination fee paid to FPF. In his declaration, Davis states that his only real contact with FPF was Rodriguez, that he was never provided with a written cost disclosure statement from FPF, and that he never authorized a \$1,500 demand payment to Rodriguez. In correspondence to Department investigator Risley Davis denies that the signature on the demand notice is his.

FPF received a gross commission check of \$8,109 for services provided on the Davis loan. Rodriguez received a commission of \$3,182, plus reimbursement of a \$375 appraisal fee.

¹³ Moore earned approximately \$12,409 in commissions on the loans.

¹⁴ Rodriguez earned at least \$86,200 in commissions on the loans.

Cris Sumagang received \$1,945.20. Santos received \$1,281.80. Zipagan received \$1,075. Alejandrino received \$250.

24. Rodriguez also negotiated and arranged a \$190,000 loan from World Savings to Peter Perez. The loan was secured by his residence located at 88 Faith Drive, Watsonville, California. FPF received a gross commission check of \$6,950 for services provided on the Perez loan. Rodriguez received a commission of \$4,500. Santos received \$1,125. Zipagan received \$1,075. Alejandrino received \$250.

25. Rodriguez negotiated and arranged a \$160,000 loan from World Savings to Manuel Lopez. The loan was secured by his residence located at 425 Circle Place, Salinas, California. FPF received a gross commission check of \$8,425 for services provided on the Lopez loan. Rodriguez received a commission of \$5,680. Santos received \$1,420. Zipagan received \$1,075. Alejandrino received \$250.

26. Rodriguez negotiated and arranged a \$354,000 loan from Accubanc Mortgage to Susan Martinez. The loan was secured by her residence located at 590 Vernon Place, Hollister, California. FPF received a gross commission check of \$14,975 for services provided on the Martinez loan. Rodriguez received a commission of \$5,250, plus reimbursement of a \$525 appraisal fee. Cris Sumagang received \$5,250. Santos received \$2,625. Zipagan received \$1,075. Alejandrino received \$250.

Gilbert Santos

27. Between April 1, 2001, and October 31, 2001, Gilbert Santos negotiated and arranged at least 23 loans secured by liens on real property,¹⁵ including a \$176,000 loan from Accubanc Mortgage to Deborah and Michael Cerruti. The loan was secured by residential property located at 148 Aurora Place, Union City, California.

The Cerrutis decided to obtain a loan through FPF because Marivic Cagatao, a friend of Deborah Cerruti's brother, was working at FPF. The Cerrutis met with Cagatao and Gilbert Santos in July 2001 at the FPF office. Gilbert Santos provided them with a FPF business card that listed his title as "Senior Mortgage Consultant/Underwriter," and he did all the talking. Although Gilbert Santos mentioned to the Cerrutis what their interest rate would be, there was no discussion of fees, points or commissions. Gilbert Santos never provided the Cerrutis with a mortgage loan disclosure statement or any type of written cost estimate. The Cerrutis returned to the FPF office in August 2001 to sign final loan papers. No notary was present at the signing.

The Cerrutis did not closely review the loan documents until after receiving their proceeds in late August. A review of the documents revealed that a \$90.59 delinquent tax lien

¹⁵ Evidence submitted at hearing indicates that between July 5, 2001 and November 27, 2001, FPF paid Gilbert Santos commissions of at least \$92,718. Between March and June 2001, Gilbert Santos was paid in excess of \$50,000 in commissions.

had been improperly deducted from the proceeds. There was also a \$1,500 error in addition, which caused the total statement of charges to the Cerrutis to be \$1,500 higher than it should have been. Deborah Cerruti contacted Santos regarding the errors and she also asked him to send copies of all their signed documents. Gilbert Santos eventually sent copies of the signed documents but the final settlement statement was not included. In Mid-November 2001 the Cerrutis received a check for \$90.59 from the title company, but not the \$1,500. The Cerrutis kept leaving messages for Gilbert Santos. Eventually they contacted Cagatao, who said she would get the check from Gilbert Santos. In mid-November 2001 Cagatao sent the Cerrutis a cashier's check for \$1,594. The Cerrutis later learned from Department investigator Risley that the title company had written Gilbert Santos a check for \$1,500 out of their refinance escrow. The closing documents from the title company did not disclose this disbursement and the Cerrutis never authorized such a payment. FPF records indicate the \$1,500 was a "demand" payment to Gilbert Santos. Gilbert Santos earned a commission of \$6,478 on the Cerruti loan. Respondent Santos received \$1,532. Zipagan received \$1,075. Alejandrino received \$250.

28. Gilbert Santos also negotiated a \$376,000 loan from Long Beach Mortgage to Malaga Smith. The loan was secured by her residence located at 2629 Grant Street, Berkeley, California. The loan process originated with a cold call from Aviel Carioso to Smith. A meeting was arranged at Smith's home. Smith met with Aviel Carioso and Gilbert Santos from FPF in approximately July 2001 regarding refinancing her home. Gilbert Santos provided Smith with a FPF business card that listed his title as "Senior Mortgage Consultant/Underwriter," and he did all the talking. Smith was unhappy with the quoted interest rate, but Gilbert Santos promised to refinance the loan at no cost in six months, when her "credit was looking better." Smith decided to go forward with the loan. She never received any type of formal written cost disclosure statement from Gilbert Santos.

On or about August 2, 2001, during his second visit to Smith's home, Gilbert Santos brought the loan closing papers for her to sign. As they were reviewing them Smith noticed that there was a \$10,507 prepayment penalty on her old loan. Smith made clear that she would not accept the loan as written. Gilbert Santos told her he would have the prepayment penalty waived. Smith then signed all except one of the papers necessary to close the loan. No notary was present at the signing. She agreed to sign the final document upon receiving proof that the prepayment penalty had been waived.

In August 2001 Smith received a loan proceeds check in the mail from the title company. The loan had been processed without her signing the final document. The \$10,507 prepayment penalty had been deducted from Smith's proceeds. Smith contacted Gilbert Santos, who repeatedly promised to obtain a refund. Then Gilbert Santos stopped taking Smith's calls. Smith called FPF and asked to speak to the manager. She was referred to respondent Santos. This was Smith's first contact with Ron Santos. Although Smith's loan application indicates she was interviewed by Santos, she denies that she ever spoke to Santos before her loan closed. Smith received a refund of the prepayment penalty after she spoke to Santos. She was told that Gilbert Santos and Carioso each had to put up half of the penalty amount from their earned commission.

Oscar Uribe

29. Between April 1, 2001, and October 31, 2001, Oscar Uribe negotiated and arranged at least four loans secured by liens on real property,¹⁶ including a loan for \$290,000 from Long Beach Mortgage to Rosario Ruiz. The loan was secured by Ruiz's residence located at 4001 San Ysidro Way, San Jose, California.

FPF received a gross commission check of \$13,175 for services provided on the Ruiz loan. Uribe received a commission of \$4,600. Jason Santos received \$4,950 (\$4,600 commission plus a \$350 appraisal fee reimbursement). Respondent Santos received \$2,300. Zipagan received \$1,075. Alejandrino received \$250.

Gene Balagos

30. Between April 1, 2001, and October 31, 2001, respondent Gene Balagos negotiated and arranged at least six loans secured by liens on real property.¹⁷ One loan negotiated and arranged by Balagos was a \$250,000 loan from National City Mortgage to Christopher Martin. The loan was secured by Martin's residence located at 5502 Sean Circle #117, San Jose, California.

FPF received a gross commission check of \$8,825 for services provided on the Martin loan. Balagos received a commission of \$5,250. Respondent Santos received \$2,250. Zipagan received \$1,075. Alejandrino received \$250.

31. Balagos started working for FPF in approximately July 2001, but did not obtain his real estate salesperson license until May 22, 2002. Balagos would solicit borrowers by telephone using a list provided by the title company. Once he got the application, he would meet with the borrower. Typically, he was the only one from FPF who would have contact with the borrower. A more senior agent would occasionally assist him (and share Balagos' commission) if Balagos was confused about the terms of a loan. Balagos would originate/arrange the loan. Zipagan would "grade paper" based on credit reports and loan applications. She determined which lenders to go to, and knew how to get around restrictions on A and B paper. Zipagan told him what to tell borrowers about rates when he went out to see them. According to Balagos, Santos answered an occasional question, but "only wanted to make sure the loan closed." When the loan closed Balagos would receive a commission.

Balagos was never trained to give borrowers a good faith estimate. He believes borrowers were given a Truth in Lending form when the loan closed, but is not sure. He did not have a written employment agreement and no taxes were withheld from his commission check. He was not clear on how his commissions were calculated. Balagos acknowledged the points charged by FPF were high, but testified he did not realize this fact until after he left FPF. He

¹⁶ Uribe earned at least \$19,168 in commissions on the loans.

¹⁷ He earned at least \$26,524 in commissions in the loans.

recalled that he used to be teased at FPF because his check was so small. For example, he was told by more senior loan agents that if they had obtained the loan they would have gotten a much larger commission amount. At the time he thought this was because they had been there longer.

After working at FPF a few months Balagos learned he needed a license to negotiate and arrange loans. He was never advised of this fact by Santos or Zipagan when he was hired. According to Balagos, Balagos told Santos that a license was required to arrange loans. Santos talked to Zipagan. Zipagan told Santos to have everyone obtain a license, and to suspend anyone who did not have a license. Balagos worked at FPF approximately six months.

After Balagos received his license in April 2002, he worked for a few months at Santos' new business, Community One Financial Services. Having a real estate license was a condition of hire by Santos.

Melvin Bautista

32. Between April 1, 2001, and October 31, 2001, respondent Melvin Bautista negotiated and arranged at least seven loans secured by liens on real property,¹⁸ including a \$250,000 loan from Long Beach Mortgage to Larry Patterson. The loan was secured by Patterson's residence located at 34572 Bluestone Commons, Fremont, California. Patterson was initially interviewed by telephone by Bautista. Bautista and Robert Espiritu then presented a loan proposal to Patterson and his wife at their home. Bautista and Espiritu visited Patterson's home on two to three occasions, and during at least one such visit Patterson and his wife signed loan documents. Patterson received a Good Faith Estimate of costs. However, it did not contain all of the information required by Business and Professions Code section 10240. Patterson does not recall ever dealing directly with Santos. The Patterson's loan application indicates that they were interviewed for the application by Santos.

FPF received a gross commission check of \$11,325 for services provided on the Patterson loan. Bautista received a commission of \$3,900. Espiritu received \$3,900. Santos received \$1,950. Zipagan received \$1,075. Alejandrino received \$500.

33. While employed at FPF, Bautista would solicit borrowers by telephone using a list provided by the title company and a script provided by Santos. After he obtained the application over the telephone, he would give the application to Santos to be "graded." Santos would provide the interest rate, fee arrangement, lender and documentation required by the lender. After the loan was graded, Bautista and a "mentor" would meet with the borrower to sell the loan to the borrower. Robert Espiritu, who had recruited Bautista to FPF, often served as Bautista's mentor and would do all of the talking. On one occasion Espiritu was not available, and Bautista presented a loan proposal to a borrower alone. He believes the borrowers were given cost disclosure forms, but does not recall if they signed them.

¹⁸ He earned at least \$42,177.50 in commissions.

Bautista did not have a written employment agreement or anything in writing regarding how he was to be paid. He was told he would be paid by commission, with half to him and half to his mentor. If Bautista handled a loan alone, he would receive a 70 percent commission. Bautista accepted this arrangement. There was never any discussion with anyone at FPF regarding withholding income taxes, worker's compensation insurance, unemployment insurance or social security taxes.

Although Santos introduced Zipagan to Bautista as the responsible broker, Zipagan never gave Bautista any instructions, never talked to him about obtaining a license, and had no role in negotiation of any of his loan packages. Bautista never observed Zipagan supervise any staff person. During the period Bautista was employed at FPF, Santos supervised all of the staff, including telling the loan processor Alejandrino and all those working to generate loans, what to do. All staff reported to Santos and received instructions from him.

Bautista worked for FPF from August 2001 to October 2001. His normal hours were 10:00 a.m. to 7:00 p.m., Monday through Friday. He did not have a license during this time period. Santos told him that he did not need to be licensed to be a "telemarketer." However, after Santos got his broker's license he told everyone that they would have to acquire a real estate license or they would be suspended. Santos also told them that he was starting his own company, and that they would need to obtain a license to work at his new company. After leaving FPF, Bautista worked at Santos' new company approximately one month without being licensed. He performed the same duties as at FPF. Santos was aware Bautista was not licensed, and encouraged him to obtain a license. Bautista obtained his real estate salesperson license on May 16, 2002.

Perry Fernandez

34. Between April 1, 2001, and October 31, 2001, respondent Perry Fernandez negotiated and arranged at least seven loans secured by liens on real property. He earned \$31,908 in commissions on these loans.¹⁹ One loan negotiated and arranged by Fernandez was for \$315,000 from World Savings to Marisa Calceta. The loan was secured by Calceta's residence located at 1063 Drexel Way, San Jose, California.

35. Fernandez also negotiated and arranged a loan for \$351,500 from New Century Mortgage to Shirley Galinato. The loan was secured by Galinato's residence located at 1709 Sundown Lane, San Jose, California. Galinato testified that Fernandez came to her office once and to her home at least twice to discuss the loan. He was the only person from FPF with whom she had contact. Fernandez last visited her home in July 2001, when Galinato and her husband signed the final loan papers. The final documents included a good faith estimate. However, Galinato was never provided with copies of any of the documents they signed. At the end of July 2001 they did receive a \$4,000 check from the title company.

¹⁹ Evidence submitted at hearing indicates that between March and November 2001 Espiritu received additional compensation in excess of \$43,433 from FPF as commissions on closed loans.

Although no notary accompanied Fernandez to the Galinato's home in July 2001, their signatures on the deed of trust included in the loan documents was apparently notarized. At hearing, Fernandez testified he did not know how the Galinato's signatures were acknowledged by a notary on the deed of trust when no notary was present at the signing. FPF received a total commission check of \$10,112.50 for the Galinato loan. Fernandez received a commission of \$7,030. Santos received \$1,757.50. Zipagan received \$1,075. Alejandrino received \$250.

36. Fernandez was hired by Santos, a childhood friend, to work at FPF as a loan originator/telemarketer. He occasionally saw Zipagan, but did not have direct contact with her. He worked at FPF just under a year. He did not have a license at the time, but had worked for direct lenders previously. No one mentored him. He would ask Santos or others if he had questions. He was paid 50 to 70 percent of the commissions paid to FPF for each loan closed.

Fernandez originated loans through telemarketing. He would call potential borrowers from lists provided by a title company or Santos. He would ask the potential borrower to accept a "free analysis" as a mean of obtaining the information necessary to complete a loan application. He would then consult with the "underwriter" regarding the fee structure and rates. If FPF could provide savings to the borrower, he would set up a meeting to present a loan proposal. He would tell borrowers what they qualified for and would take documents to their residences for them to sign. If the borrower accepted the proposal, a file would be set up and the loan processed. Fernandez would visit the borrower as necessary to obtain supporting documentation and/or obtain borrower signatures. He was not taught to give copies of documents to borrowers, and did not always do so. He believed that he did sometimes give good faith estimates, prepared by Santos, to borrowers

Fernandez testified that Santos was the office manager. He oversaw all the files, made recommendations regarding the files and helped Alejandrino prepare files for submission to lenders. Santos was responsible for strategic planning, and contacting lenders to ensure that FPF had current rate sheets. He also supervised Fernandez, Alejandrino and the other individuals who arranged loans.

Raymond Lee

37. Between April 1, 2001, and October 31, 2001, respondent Raymond Lee negotiated and arranged at least five loans secured by liens on real property,²⁰ including a \$248,000 loan from National City Mortgage to Scott Baron. The loan was secured by Baron's residence located at 3440 Gold Drive, San Jose, California. Baron's first contact with Lee was an unsolicited telephone call. Lee was the only person from FPF with whom Baron had contact. All of the paperwork for the loan was signed at Baron's home. Baron's file did not contain a Good Faith Estimate. FPF received a gross commission check of \$6,285 for services provided on the Baron loan. Lee received a commission of \$2,976. Santos received \$1,984. Zipagan received \$1,075. Alejandrino received \$250.

²⁰ He earned at least \$16,267.55 in commissions.

38. Lee also negotiated and arranged a \$713,000 loan from Accubanc Mortgage to William Feichtman. The loan was secured by Feichtman's residence located at 15209 Sycamore Drive, Morgan Hill, California. Lee was the only person from FPF with whom Feichtman had contact. FPF received a gross commission check of \$7,735.50 for services provided on the Feichtman loan. Lee received a commission of \$4,242. Santos received \$1,818. Zipagan received \$1,075. Alejandrino received \$250.

39. Lee negotiated and arranged a \$244,000 loan from Accubanc Mortgage to Mario Barzola. The loan was secured by Barzola's residence located at 2104 Pedro Avenue, Milpitas, California. The loan process originated with a cold call from Lee to Barzola. Lee was the only one from FPF with whom Barzola had contact. Lee visited Barzola's home two to three times during the course of the loan. All of the paperwork was signed at Barzola's home. Barzola does not recall a notary accompanying Lee. FPF received a gross commission check of \$6,510 for services provided on the Barzola loan. Lee received a commission of \$3,507. Santos received \$1,503. Zipagan received \$1,075. Alejandrino received \$250.

40. Lee testified that he was hired by Zipagan. He worked at FPF part-time. His normal hours were 5:30 p.m. to 7:00 p.m. two to three nights per week. He would make cold calls to potential borrowers and obtain basic financial information from individuals interested in refinancing. According to Lee, his loans were graded by Zipagan, who would tell him the interest rate and points orally or in handwritten notes left on his files. Lee would meet with borrowers to pick up financial documents. He accompanied the notary to the borrowers' home to have loan papers signed, and he had borrowers come to the office to sign loan papers. Lee worked at Santos' new business after he left FPF. Lee obtained his license on March 11, 2002.

Ram Naidu

41. Between April 1, 2001, and October 31, 2001, respondent Ram Naidu negotiated and arranged at least nine loans secured by liens on real property,²¹ including a \$291,000 loan from World Savings to Alvino and Rosalie Ornelas. The loan was secured by the Ornelas' residence located 731 Pronto Drive, San Jose, California. In her declaration, Rosalie Ornelas states that during the loan process Naidu came to their home several times, and that he was their only contact at FPF. Naidu never provided the Ornelas with any written disclosures from FPF. They did receive an Estimated Borrowers Closing Statement from Fidelity National Title Company, which indicated a \$3,260 loan origination fee had been paid. Nothing on the statement indicated a fee was to be paid to Naidu from the Ornelas' loan proceeds. However, when Naidu delivered the loan proceeds check to the Ornelas, he told Rosalie Ornelas "they" forgot to deduct \$4,300 that should have been paid to him and that she needed to write him a check for that amount. She wrote him a check for \$4,315 dated July 11, 2001. After meeting with Department investigator Risley, Rosalie Ornelas had an opportunity to review the Final Settlement Statement, which Ornelas did not recall receiving previously. It indicated a demand

²¹ He earned at least \$56,213 in commissions.

payment of \$4,900 had been also been paid to Naidu. At hearing, Naidu admitted he had only performed his normal duties with respect to the Ornelas loan and was unable to explain why he received the additional \$4,315 compensation.

FPF received a gross commission check of \$13,980 for services provided on the Ornelas loan. Naidu received a commission of \$8,368.50, plus a \$700 appraisal fee. (This was in addition to the \$4,315 received as a personal check from Ornelas.) Santos received \$3,586.50. Zipagan received \$1,075. Alejandrino received \$250.

42. Naidu also negotiated and arranged a \$335,000 loan from Accubanc Mortgage to Ralph Bumpus. The loan was secured by Bumpus' residence located at 3946 Nelson Drive, Palo Alto, California. FPF received a gross commission check of \$9,700 for services provided on the Bumpus loan. Naidu received a commission of \$3,350. Christina Santa Ana received \$3,350. Santos received \$1,675. Zipagan received \$1,075. Alejandrino received \$250.

43. Naidu negotiated and arranged a loan for \$264,000 from Accubanc Mortgage to Marilynne Lake. The loan was secured by Lake's residence located at 4025 Heron Place, Fremont, California. FPF received a gross commission check of \$9,575 for services provided on the Lake loan. Naidu received a commission of \$2,660. Christina Santa Ana received \$2,660. Santos received \$1,330. Zipagan received \$1,075. Alejandrino received \$250.

44. Naidu started working for FPF part-time in October 2000. He did not receive his real estate license until May 2, 2002. Naidu worked at FPF approximately one year. He was hired by Santos. Naidu would make cold calls to prospective borrowers. If they were interested he would take their personal information. He would then give the initial application to Santos or Zipagan to be graded. Typically, Naidu's loans were graded by Santos. Next Naidu would arrange a meeting with the borrower to present the loan proposal and obtain the preliminary loan papers. He would then arrange for appraisals and the necessary documents to be provided to FPF. Finally, he would take the final loan package to the borrower to be signed, and then give it to Santos or Alejandrino for processing. According to Naidu, Santos was responsible for overseeing all the paperwork at FPF.

Jason Santos

45. Between April 1, 2001, and October 31, 2001, respondent Jason Santos negotiated and arranged at least 14 loans secured by liens on real property.²² One such loan was a \$327,000 loan from New Century Mortgage to Jaime and Elena Moreno. The loan was secured by the Moreno's residence located at 1277 Monteagle Drive, San Jose, California. The Morenos met Jason Santos when he knocked on their door. He offered them a loan rate that they liked, and after several meetings the Morenos signed loan papers. The papers were signed at the Moreno's home. No notary was present. Jason Santos was the only person from FPF with whom the Moreno ever had contact. FPF received a gross commission check of \$18,097.96 for services provided on the Moreno loan. Jason Santos received a commission of

²² Jason Santos earned at least \$77,240 in commissions on the loans.

\$6,709.18. Robert Espiritu received \$6,709.18. Respondent Santos received \$3,354.59. Zipagan received \$1075. Alejandrino received \$250.

46. Jason Santos told investigator Risley that he was hired and supervised by Zipagan. According to Jason Santos, he began as a telemarketer, but was eventually approved by Zipagan to meet with borrowers and make loan proposals. He would also pick up and drop off necessary documents at the borrower's residence. He did not provide written loan disclosures. He did not have a license while working at FPF. He obtained his real estate salesperson license on April 20, 2002, and now works for his brother, respondent Santos, full-time.

Senh Duong

47. Senh Duong negotiated and arranged at least six loans secured by liens on real property.²³ One such loan was a \$261,000 loan from Accubanc Mortgage to Roland Tharp. The loan was secured by Tharp's residence located at 14540 Nelson Way, San Jose, California. FPF received a gross commission check of \$18,640 for services provided on the Tharp loan. Duong received a commission of \$6,686, plus a \$350 appraisal fee. Jason Santos received \$6,686. Respondent Santos received \$3,343. Zipagan received \$1,075. Alejandrino received \$250.

48. Duong is good friends with Jason Santos, respondent Santos' younger brother. Jason Santos introduced Duong to Zipagan, who hired him after an informal interview. There was no written employment agreement or formal discussion of a commission split. Duong was working in the medical field at the time and did not have any prior experience soliciting borrowers for loans, nor did he have a real estate salesperson license. Duong did not obtain his license until April 29, 2002. Duong started working at FPF part-time in approximately September 2001. He performed the same type of telemarketing duties as the other telemarketing staff. Duong testified Zipagan told everyone what to do and ran the loan brokerage operation. However, he also testified that he rarely talked to Zipagan, that Zipagan only occasionally graded loans, that Zipagan rarely helped him and that Zipagan's primary function was buying the staff cookies and Top Ramen. Duong further testified that a majority of the time Santos handled the processing of loans.

Santos' Testimony

49. Santos essentially disavows all responsibility for operation of FPF even though he was the manager of and responsible for daily operations of that loan brokerage at all times pertinent to the proceeding. Santos acknowledges "recruiting" individuals to work at FPF, but claims Zipagan had to approve all hires. According to Santos, he simply directed individuals to talk to Zipagan, and "all of a sudden" they were working at FPF. Santos denies he ever discussed licensure of staff with Zipagan, and claims that he was not aware that the individuals

²³ Duong earned at least \$29,980 in commissions.

hired to solicit loans on behalf of FPF needed to be licensed. He also testified that Zipagan had to approve all commissions, and that Zipagan graded all the loans. Santos maintains that Zipagan was always the boss and responsible for operations, that she made all the decisions regarding the brokerage, and that he was just an employee.

Santos testified that his primary function was to manage the flow of loan files at FPF, but he was unable to recall his specific daily duties. Santos acknowledged communicating with lenders to determine the paperwork necessary to complete a loan file, but denied he obtained or approved lenders for FPF. Santos acknowledged contacting the escrow company to determine documents necessary to complete the escrow file, but denied any responsibility for ensuring the accuracy of the file. Santos admitted he may have occasionally interviewed borrowers to obtain information for loan applications, but testified he seldom visited a borrower's home. Santos acknowledged he was aware agents were presenting loan proposals to borrowers in the field. However, he disclaimed any responsibility for the content of the agents' proposals stating they obtained their information from the lenders or Zipagan. Santos also disclaimed any knowledge of some basic office functions. For example, he claimed not to know how agents obtained leads, whether Alejandrino was a licensed notary, or who notarized deeds of trusts and other documents.

Santos denied he occasionally signed loan applications even though he was not the interviewer or that he ever signed as the interviewer on the typed loan applications submitted to escrow. He contends "someone" forged his signature on all the applications (e.g., Landa, Long, Ornelas) that identify him as the interviewer of the borrower. Santos also claimed that despite the fact he was compensated on the McWilliams loan, he never saw the \$7,999.95 demand note payable to FPF and that the note was a "surprise" to him. Santos essentially disavowed all knowledge of any discrepancies in FPF loan files.

50. Santos' assertion that he was an employee who had an extremely limited role in the operation of FPF is not credible. Testimony from Bautista, Fernandez, Naidu, Espiritu, Balagos, Zipagan and Department investigator Risley, as well as FPF records, establishes that Santos was primarily responsible for and actively engaged in the daily operations of FPF during the period covered by the Accusation: April 1, 2001, and October 31, 2001. Santos hired and supervised the FPF staff. He determined commission splits, graded loans, contacted lenders, determined job duties, served as the contact for resolving problems with loans and/or borrower complaints, reviewed and approved loan files. As compensation for performing these key brokerage functions, Santos routinely received approximately 20 percent of the net commission (i.e., gross commission less \$1075 broker fee and processing fee to Alejandrino) on every loan generated while he was "office manager." Santos' portion of the commission always exceeded the broker fee received by Zipagan,²⁴ and his earnings were directly tied to production by his staff. The evidence established that Santos performed and was compensated for performing duties well beyond those of an office manager.

²⁴ Santos testified Zipagan earned approximately \$387,000 from FPF. He clearly earned well in excess of that amount.

51. Santos' claim that he was not aware that the "telemarketers" hired at FPF needed to be licensed in order to solicit loans similarly lacks credibility. Zipagan credibly testified that she and Santos discussed the need for him to obtain at least a salesperson license before they went into business together. Santos testified (not very credibly) that no such discussion ever took place and that he decided to obtain a license in order to become more knowledgeable about the business and because he wanted to open his own operation. Under either scenario, Santos was aware, no later than January 2001, when he obtained his own salesperson license, that a license was required to solicit loans. Yet Santos continued to hire unlicensed individuals to solicit loans, and to accept compensation resulting from such loans. It is also notable that when Santos left to form his own company, he required real estate licensure as a condition of hire. The evidence clearly demonstrates that Santos knew his actions were improper when he hired and/or continued to employ unlicensed individuals to solicit loans during the period covered by the Accusation.

Even if Santos' claim that he was not aware that FPF telemarketers needed to be licensed were deemed credible, it would not relieve him of responsibility for his conduct. In *Handeland v. Dept. of Real Estate* (1976) 58 Cal.App.3rd 513, the court held that a real estate agent did not have to know he was violating the law in order for the conduct to be willful. The court noted that the purpose of disciplinary proceedings against real estate licensees is to protect the public not only from conniving real estate salesmen but also from the uninformed, negligent or unknowledgeable salesman. (See also *Chodur v. Edmonds* (1985) 174 Cal.App.3d 565 [no finding of fraud or deception required in order to find dishonest dealing and a violation of real estate law]; *Norman I. Krug Real Estate Investments, Inc. v. Praszker*, (1984) 22 Cal.App.4th. 1814, 1822 [licensed broker may be disciplined for failure to disclose even if the broker was not intentionally fraudulent or dishonest].)

52. Alternatively, Santos argues that it was Zipagan's obligation, as the responsible broker, and not his, to ensure that individuals working at FPF were properly licensed and/or in compliance with all requirements of negotiating and arranging loans. His contention is not persuasive. The evidence clearly established that Santos was primarily responsible for daily operations at FPF, including hiring and firing staff. He intentionally hired unlicensed staff with the knowledge that licensure was a requirement for the proposed job duties for which they were hired. As a real estate licensee he had a fiduciary duty to comply with applicable law, including not aiding the illegal practice of loan brokerage. (*Norman I. Krug Real Estate Investments, Inc. v. Praszker* (1990) 220 Cal.App.3d 35; *Handeland v. Dept. of Real Estate* (1976) 58 Cal.App.3rd 513.) Santos also had a fiduciary duty to act in the best interests of the borrower. It is well established that a realtor has a fundamental duty of honesty, fairness and full disclosure toward all parties in a sales transaction. (*Norman I. Krug Real Estate Investments, Inc. v. Praszker* (1994) 22 Cal.App.4th 1814, 1820; and see *Norman I. Krug Real Estate Investments, Inc. v. Praszke, supra*, 220 Cal.App.3d at pp. 41- 43.)

Instead, of complying with his fiduciary obligations, Santos facilitated illegal loan brokerage activity and engaged in conduct that helped facilitate harm to the consumer. Santos hired unlicensed loan agents and then permitted those agents, while under his supervision, to, inter alia, routinely fail to disclose all fees and costs prior to loan closure, fail to

provide written cost disclosure statements, charge exorbitant fees and add costs after documents were signed by borrowers. Santos argues that it was the loan agents who engaged in such conduct, not him personally, and that he was not aware of their actions. His assertion is not credible. The evidence established Santos reviewed and approved virtually every loan file to ensure proper documentation and that the loan would close. In addition, Santos was responsible for determining and distributing commissions (including his own) and other income to the FPF staff. In order to fulfill this responsibility, and ensure he received his proper share of the commissions, Santos had to be very familiar with each loan file. It is inconceivable that he was not aware FPF agents were not providing proper cost disclosures to borrowers and/or of the other dishonest actions of the agents. Instead of correcting such actions, Santos sanctioned them by processing the loans and pocketing his share of the excessive commissions. His consistent failure to insure proper disclosure of costs, additionally suggests deliberate nondisclosure. Respondent's overall conduct suggests a lack of high moral character in that it evidences a willingness to violate and disrespect for the laws of the state. It is also evidence of a deficiency in those character traits necessary for the practice of the real estate profession, such as trustworthiness, honesty, fairness, candor, and fidelity to fiduciary duties.

53. At no point during his testimony did Santos express remorse for his conduct or for any damage to borrowers that may have resulted from his conduct.

Other Matters

54. Department investigator Maxine Risley conducted an investigation of FPF loan files. She reviewed business records, original loan files, cancelled checks, bank deposit information and original records of commission distribution. Most of the approximately 39 loan files randomly reviewed by Risley did not contain mortgage loan disclosure statements. In those few files that did contain disclosure statements (usually identified as Good Faith Estimates), the statements were not signed and they did not contain all of the information required by Business and Professions Code section 10240. Many of the loan documents also improperly listed unlicensed individuals as the loan officers on the loans.

55. Risley also subpoenaed escrow files, contacted borrowers and reviewed the borrowers' files. She frequently found discrepancies between the information contained in the escrow files and the borrower's files. For example, Risley's review of the McWilliams loan file indicated FPF initially sought to charge McWilliams two sets of loan fees. The lender told FPF they could not have the second loan fee. The fee was taken off, but then it was put back on and the borrower paid both fees. The borrower told Risley, and testified at hearing, that she was not aware that she had paid two sets of loan fees. The fees were divided between the FPF employees, but were never disclosed to McWilliams, the borrower.

LEGAL CONCLUSIONS

Applicable Law

1. Business and Professions Code²⁵ section 10130 provides that it is “unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman” without first obtaining a real estate license. Pursuant to section 10131, subdivision (d), a real estate broker is defined to include any person who, for compensation or in the expectation of compensation, “solicits borrowers or lenders for or negotiates loans or collects payments or performs services for borrowers or lenders or note owners in connection with loans secured directly or collaterally by liens on real property or on a business opportunity.”

Section 10137 provides that it is unlawful for any licensed real estate broker to employ or compensate any person for performing duties for which a real estate license is required if that person does not have such a license. Section 10137 further provides that it is unlawful for any real estate salesperson to pay compensation for performing acts for which a real estate license is required except through the broker under whom he is at the time licensed.

Section 10240 requires a broker, within three business days of receipt of a loan application or before a borrower becomes obligated on a note, whichever is earlier, to deliver a written disclosure statement to the borrower containing all the information required by section 10241. The disclosure statement must be signed by the borrower and the broker, or a licensed real estate agent acting on the broker’s behalf. An exact copy must be left with the borrower and the broker must retain a copy for three years. Pursuant to section 10241 the statement must include, inter alia, the estimated maximum costs and expenses of making the loan (including appraisal fees, escrow fees, title charges, notary fees, recording fees, credit investigation fees), total of the brokerage or commissions contracted for, or to be received, by the broker, estimated amounts to be paid on behalf of the borrower, estimated balance of loan funds to be paid to the borrower, principal amount of the loan, rate of interest, term of the loan, and a statement containing the name of the real estate broker negotiating the loan, her license number and business address.

Section 10177, subdivision (d) authorizes license discipline if a licensee has “[w]illfully disregarded or violated the Real Estate Law . . . or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law . . .”

Santos

2. The Accusation alleges that cause for discipline of respondent Santos’ license exists under sections 10130 and 10137, in conjunction with section 10177, subdivision (d).

²⁵ All citations are to the Business and Professions Code unless otherwise indicated.

Complainant argues Santos willfully disregarded the law by knowingly operating a loan brokerage business with Zipagan using unlicensed persons, to the detriment of the public.

Santos contends he never “assumed to act” as a broker at FPF, but simply performed services for his broker Zipagan in his role as office manger. He further argues that he did not personally solicit borrowers or negotiate loans, that he never employed or compensated anyone, and that all he did was mathematically determine the compensation that would be paid “an agent” based on the agent’s agreement with Zipagan. Santos’ contention ignores the bulk of the evidence. As summarized in Factual Findings 50 through 52, the evidence established that Santos oversaw and dictated the operation of FPF on a daily basis, and that he acted pervasively in running the operation. The evidence also establishes that at all times pertinent to the Accusation Santos was aware the loan agents working for FPF were required to have a real estate salesperson license in order to solicit loans. None of the agents hired and/or employed by Santos during his tenure at FPF had such a license. Santos nevertheless permitted and facilitated the agents’ solicitation of loans on behalf of FPF, in willful violation of the Real Estate Law. The evidence established he personally oversaw and directed the FPF agents who solicited, arranged, negotiated, processed and consummated loans between borrowers and lenders that were secured directly or collaterally by liens on real property. The evidence also established that Santos permitted the agents to operate in a manner harmful to the public, including charging exorbitant fees, charging undisclosed fees, and failing to provide borrowers with written estimates of costs.

3. Cause for license discipline exists pursuant to Business and Professions Code sections 10130, in conjunction with section 10177, subdivision (d) of the Business and Professions Code, by reason of the matters set forth in Findings 9 through 48, and Legal Conclusion 2.

4. Cause for license discipline exists pursuant to Business and Professions Code sections 10137, in conjunction with section 10177, subdivision (d) of the Business and Professions Code, by reason of the matters set forth in Findings 9 through 48, and Legal Conclusion 2.

5. Cause for license discipline exists pursuant to Business and Professions Code sections 10240, in conjunction with section 10177, subdivision (d) of the Business and Professions Code, by reason of the matters set forth in Findings 12, 13,14, 22, 23, 27, 28, 31, 36, 37, 41, 46, 54 and 55.

6. A real estate licensee must conduct himself with honesty, trustworthiness and in accordance with numerous laws, rules and regulations, all with a minimum of supervision. Respondent’s past conduct demonstrates a lack of moral character and a lack of trustworthiness, honesty and respect for and obedience to the law. Such conduct also satisfies a finding of unfitness to practice a profession, in this case real estate. (*Matanky v. Bd. of Medical Examiners* (1978) 79 Cal.App.3rd 293, 305.) No direct evidence of mitigation or rehabilitation was offered at hearing. The record is also devoid of any evidence of remorse, change in attitude or change in character on respondent’s part. It must also be noted

that respondent's misconduct, which involves breach of an obligation of fidelity to fiduciary duties, was committed in connection with the practice of loan brokerage, the same occupation he seeks to continue. After considering all of the evidence, it is determined that it would be against the public interest to permit respondent Santos to continue to hold a real estate broker license.

Mohammadi

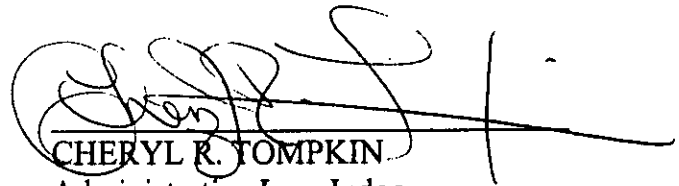
7. Cause for license discipline exists pursuant to Business and Professions Code sections 10130, in conjunction with section 10177, subdivision (d) of the Business and Professions Code, by reason of the matters set forth in Findings 12 through 15.

ORDER

1. All real estate licenses and licensing rights issued to respondent Ronald Santos by the Department of Real Estate are revoked.

2. All real estate licenses and licensing rights issued to respondent Kaseem Mohammadi by the Department of Real Estate are revoked.

DATED: 4/15/05


CHERYL R. TOMPKIN
Administrative Law Judge
Office of Administrative Hearings

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789
5 -or- (916) 227-0788 (Direct)

FILED
MAR -9 2005

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-8687 SF
12 MELVIN C. BAUTISTA,) OAH No. N-2004070431
13 Respondent.) STIPULATION AND AGREEMENT
14)

15 It is hereby stipulated by and between Respondent
16 MELVIN C. BAUTISTA (herein "Respondent"), individually and by and
17 through Terence O. Mayo, Esq., attorney of record herein for
18 Respondent LEE, and the Complainant, acting by and through James
19 L. Beaver, Counsel for the Department of Real Estate (herein "the
20 Department"), as follows for the purpose of settling and
21 disposing of the Accusation filed on March 12, 2004 in this
22 matter (herein "the Accusation"):

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26

27 DRE No.H-8687 SF

MELVIN C. BAUTISTA

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

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

8 3. On April 1, 2004, 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 Respondent
13 understands that by withdrawing said Notice of Defense Respondent
14 will thereby waive Respondent's right to require the Real Estate
15 Commissioner (herein "the Commissioner") to prove the allegations
16 in the Accusation at a contested hearing held in accordance with
17 the provisions of the APA and that Respondent will waive other
18 rights afforded to Respondent in connection with the hearing such
19 as the right to present evidence in defense of the allegations in
20 the Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interests of
23 expediency and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these factual allegations, without being admitted
26

27 DRE No.H-8687 SF

MELVIN C. BAUTISTA

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation and Respondent's decision not to
6 contest the Accusation are made for the purpose of reaching an
7 agreed disposition of this proceeding and are expressly limited
8 to this proceeding and any other proceeding or case in which the
9 Department of Real Estate (herein "the Department"), the state or
10 federal government, an agency of this state, or an agency of
11 another state is a party.

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

22 7. This Stipulation and Agreement shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department with
25 respect to any matters which were not specifically alleged to be
26

causes for accusation in this proceeding.

DETERMINATION OF ISSUES

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

I

The acts and omissions of Respondent MELVIN C. BAUTISTA as described in Paragraphs XVII and XVIII, inclusive, of the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent MELVIN C. BAUTISTA under Sections 10130 and 10177(d) of the California Business and Professions Code (herein "the Code").

ORDER

I

A. All licenses and licensing rights of Respondent MELVIN C. BAUTISTA under the Real Estate Law are suspended for a period of one hundred fifty (150) days from the effective date of the Decision herein; provided, however:

1. If Respondent petitions, one hundred (100) days of said one hundred fifty (150) day suspension (or a portion thereof) shall be stayed upon condition that:

(a) Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code at the rate of \$100.00 for each day of the suspension for a total monetary penalty of \$10,000.00.

1 (b) Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received by the
4 Department prior to the effective date of the Decision in this
5 matter.

6 (c) If Respondent fails to pay the monetary penalty in
7 accordance with the terms and conditions of the Decision, the
8 Commissioner may, without a hearing, vacate and set aside the
9 stay order, and order the immediate execution of all or any part
10 of the stayed suspension.

11 (d) No final subsequent determination be made, after
12 hearing or upon stipulation, that cause for disciplinary action
13 against Respondent occurred within two (2) years of the effective
14 date of the Decision herein. Should such a determination be made,
15 the Commissioner may, in his or her discretion, vacate and set
16 aside the stay order, and order the execution of all or any part
17 of the stayed suspension, in which event the Respondent shall not
18 be entitled to any repayment nor credit, prorated or otherwise,
19 for money paid to the Department under the terms of this
20 Decision.

22 (e) If Respondent pays the monetary penalty and if no
23 further cause for disciplinary action against the real estate
24 license of Respondent occurs within two (2) years from the
25 effective date of the Decision herein, then the stay hereby
26 granted shall become permanent.

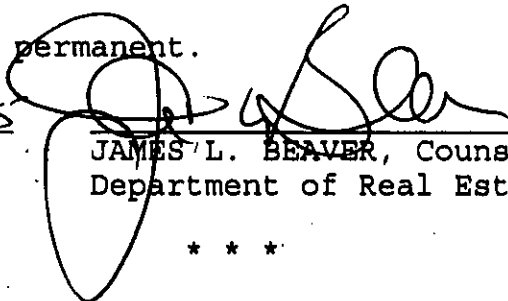
1 2. Fifty (50) days of said one hundred fifty (150)
2 day suspension shall be stayed upon condition that:

3 (a) No final subsequent determination be made, after
4 hearing or upon stipulation, that cause for disciplinary action
5 against Respondent occurred within two (2) years of the
6 effective date of the Decision herein.

7 (b) Should such a determination be made, the
8 Commissioner may, in his or her discretion, vacate and set
9 aside the stay order, and order the execution of all or any
10 part of the stayed suspension, in which event the Respondent
11 shall not be entitled to any repayment nor credit, prorated or
12 otherwise, for money paid to the Department under the terms of
13 this Decision.

14 (c) If no order vacating the stay is issued, and if
15 no further cause for disciplinary action against the real
16 estate license of Respondent occurs within two (2) years from
17 the effective date of the Decision, then the stay hereby
18 granted shall become permanent.

19
20 January 31, 2005
21 DATED


21 JAMES L. BEAVER, Counsel
22 Department of Real Estate

22 * * *

23 I have read the Stipulation and Agreement and discussed
24 it with my attorney and its terms are understood by me and are
25 agreeable and acceptable to me. I understand that I am waiving
26 rights given to me by the California Administrative Procedure Act

27 DRE No.H-8687 SF

MELVIN C. BAUTISTA

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

8 11/8/05

9 DATED


10 MELVIN C. BAUTISTA
11 Respondent

12 * * *

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

15 1/26/05

16 DATED


17 TERENCE O. MAYO
18 Attorney for Respondent

19 * * *

20 The foregoing Stipulation and Agreement is hereby
21 adopted by me as my Decision in this matter as to Respondent
22 MELVIN C. BAUTISTA and shall become effective at 12 o'clock noon
23 on MARCH 30, 2005.

24 IT IS SO ORDERED MARCH 1, 2005.

25 JEFF DAVIS
26 Real Estate Commissioner


27 DRE No.H-8687 SF

MELVIN C. BAUTISTA

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789
5 -or- (916) 227-0788 (Direct)

FILED
FEB 11 2005

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	DRE No. H-8687 SF
12 JASON P. SANTOS,)	OAH No. 'N-2004070431
13 Respondent.)	<u>STIPULATION AND AGREEMENT</u>
14)	

15 It is hereby stipulated by and between Respondent JASON
16 P. SANTOS (herein "Respondent"), individually and by and through
17 David Hamerslough, Esq., attorney of record herein for Respondent
18 SANTOS, and the Complainant, acting by and through James L.
19 Beaver, Counsel for the Department of Real Estate (herein "the
20 Department"), as follows for the purpose of settling and
21 disposing of the Accusation filed on March 12, 2004 in this
22 matter (herein "the Accusation"):

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26

27 DRE No. H-8687 SF

JASON P. SANTOS

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

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

8 3. On March 26, 2004, 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 Respondent
13 understands that by withdrawing said Notice of Defense Respondent
14 will thereby waive Respondent's right to require the Real Estate
15 Commissioner (herein "the Commissioner") to prove the allegations
16 in the Accusation at a contested hearing held in accordance with
17 the provisions of the APA and that Respondent will waive other
18 rights afforded to Respondent in connection with the hearing such
19 as the right to present evidence in defense of the allegations in
20 the Accusation and the right to cross-examine witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interests of
24 expediency and economy, Respondent chooses not to contest these
25 allegations, but to remain silent and understands that, as a
26 result thereof, these factual allegations, without being admitted

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation and Respondent's decision not to
6 contest the Accusation are made for the purpose of reaching an
7 agreed disposition of this proceeding and are expressly limited
8 to this proceeding and any other proceeding or case in which the
9 Department of Real Estate (herein "the Department"), the state or
10 federal government, an agency of this state, or an agency of
11 another state is a party.

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

22 7. This Stipulation and Agreement shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department with
25 respect to any matters which were not specifically alleged to be
26

causes for accusation in this proceeding.

DETERMINATION OF ISSUES

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

I

The acts and omissions of Respondent JASON P. SANTOS as described in Paragraphs XVII and XVIII, inclusive, of the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent JASON P. SANTOS under Sections 10130 and 10177(d) of the California Business and Professions Code (herein "the Code").

ORDER

I

All licenses and licensing rights of Respondent JASON P. SANTOS under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to said Respondent pursuant to Section 10156.5 of the Code if, within 90 days from the effective date of the Decision entered pursuant to this Order, such Respondent makes application for the restricted license and pays to the Department the appropriate fee therefor.

The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code

DRE No.H-8687 SF

JASON P. SANTOS

1 and to the following limitations, conditions and restrictions
2 imposed under authority of Section 10156.6 of the Code:

3 1. Any restricted license issued to Respondent
4 pursuant to this Decision shall be suspended for seventy five
5 (75) days from the date of issuance of said restricted license;
6 provided, however, if Respondent petitions, seventy five (75)
7 days of said seventy five (75) day suspension (or a portion
8 thereof) shall be stayed upon condition that:

9 (a) Respondent pays a monetary penalty pursuant to
10 Section 10175.2 of the Business and Professions Code at the rate
11 of \$100.00 for each day of the suspension for a total monetary
12 penalty of \$7,500.00.

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

18 (c) If Respondent fails to pay the monetary penalty in
19 accordance with the terms and conditions of the Decision, the
20 Commissioner may, without a hearing, vacate and set aside the
21 stay order, and order the immediate execution of all or any part
22 of the stayed suspension.

23 (d) No final subsequent determination be made, after
24 hearing or upon stipulation, that cause for disciplinary action
25 against Respondent occurred within two (2) years of the effective
26 date of the Decision.

1 date of this Decision. Should such a determination be made, the
2 Commissioner may, in his or her discretion, vacate and set aside
3 the stay order, and order the execution of all or any part of the
4 stayed suspension, in which event the Respondent shall not be
5 entitled to any repayment nor credit, prorated or otherwise, for
6 money paid to the Department under the terms of this Decision.

7 (e) If Respondent pays the monetary penalty and if no
8 further cause for disciplinary action against the real estate
9 license of Respondent occurs within two (2) years from the
10 effective date of the Decision, then the stay hereby granted
11 shall become permanent.

12 2. Any restricted license issued to Respondent
13 pursuant to this Decision may be suspended prior to hearing by
14 Order of the Commissioner in the event of Respondent's conviction
15 or plea of nolo contendere to a crime which is substantially
16 related to Respondent's fitness or capacity as a real estate
17 licensee.

18 3. Any restricted license issued to Respondent
19 pursuant to this Decision may be suspended prior to hearing by
20 Order of the Commissioner on evidence satisfactory to the
21 Commissioner that Respondent has violated provisions of the
22 California Real Estate Law, the Subdivided Lands Law, Regulations
23 of the Commissioner or conditions attaching to the restricted
24 license.

25 4. Respondent shall not be eligible to apply for the
26

1 issuance of an unrestricted real estate license nor for the
2 removal of any of the conditions, limitations or restrictions of
3 a restricted license until two (2) years has elapsed from the
4 effective date of this Decision.

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

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

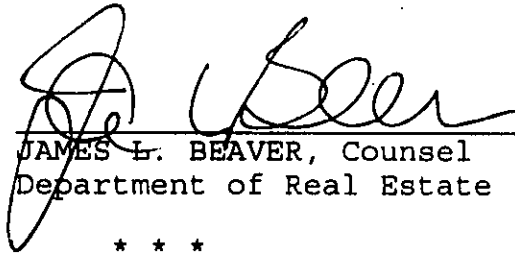
25 8. Respondent shall submit with any application for
26 license under an employing broker, or any application for

1 transfer to a new employing broker, a statement signed by the
2 prospective employing real estate broker on a form approved by
3 the Department of Real Estate which shall certify:

4 a. That the employing broker has read the Decision of
5 the Commissioner which granted the right to a restricted license;
6 and

7 b. That the employing broker will exercise close,
8 supervision over the performance by the restricted licensee
9 relating to activities for which a real estate license is
10 required.

11 12/22/04
12 _____
13 DATED

14 
15 _____
16 JAMES L. BEAVER, Counsel
17 Department of Real Estate
18 * * *

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

24 ///
25 ///
26 ///

1 and mitigation of the charges.

2 12/21/04 /s/ Jason P. Santos (see previous page)
3 DATED JASON P. SANTOS
Respondent

4 * * *

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

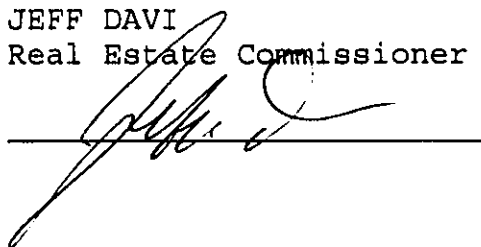
7
8 12/22/04 /s/ David Hamerslough (see previous page)
9 DATED DAVID HAMERSLOUGH
Attorney for Respondent

10 * * *

11 The foregoing Stipulation and Agreement is hereby
12 adopted by me as my Decision in this matter as to Respondent
13 JASON P. SANTOS and shall become effective at 12 o'clock noon on
14 March 7, 2005.

15 IT IS SO ORDERED KG, 2005.

16
17 JEFF DAVI
Real Estate Commissioner

18 
19
20
21
22
23
24
25
26

27 DRE No.H-8687 SF JASON P. SANTOS

1 and mitigation of the charges.

2 12.21.04

3 DATED

Jason P. Santos
4 JASON P. SANTOS
5 Respondent

6 * * *

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

9 12/22/04

10 DATED

David Hamerslough
11 DAVID HAMERSLOUGH
12 Attorney for Respondent

13 * * *

14 The foregoing Stipulation and Agreement is hereby
15 adopted by me as my Decision in this matter as to Respondent
16 JASON P. SANTOS and shall become effective at 12 o'clock noon on
17 _____, 2005.

18 IT IS SO ORDERED _____, 2005.

19 JEFF DAVI
20 Real Estate Commissioner
21 _____

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789
5 -or- (916) 227-0788 (Direct)

FILED
FEB 11 2005

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-8687 SF
12) OAH No. N-2004070431
13 AZUCENA SANDY ZIPAGAN,)
14 Respondent.) STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between Respondent
16 AZUCENA SANDY ZIPAGAN (herein "Respondent"), individually and by
17 and through Robert B. Jacobs, Esq., attorney of record herein for
18 Respondent ZIPAGAN, and the Complainant, acting by and through
19 James L. Beaver, Counsel for the Department of Real Estate
20 (herein "the Department"), as follows for the purpose of settling
21 and disposing of the Accusation filed on March 12, 2004 in this
22 matter (herein "the Accusation"):

23 ///

24 ///

25 ///

27 DRE No. H-8687 SF

AZUCENA SANDY ZIPAGAN

1 1. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondent
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act (APA), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation and Agreement.

8 2. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department in this proceeding.

11 3. On March 18, 2004, Respondent filed a Notice of
12 Defense pursuant to Section 11505 of the Government Code for the
13 purpose of requesting a hearing on the allegations in the
14 Accusation. Respondent hereby freely and voluntarily withdraws
15 said Notice of Defense. Respondent acknowledges that Respondent
16 understands that by withdrawing said Notice of Defense Respondent
17 will thereby waive Respondent's right to require the Real Estate
18 Commissioner (herein "the Commissioner") to prove the allegations
19 in the Accusation at a contested hearing held in accordance with
20 the provisions of the APA and that Respondent will waive other
21 rights afforded to Respondent in connection with the hearing such
22 as the right to present evidence in defense of the allegations in
23 the Accusation and the right to cross-examine witnesses.

24 4. This Stipulation is based on the factual
25 allegations contained in the Accusation. In the interests of
26

27 DRE No.H-8687 SF

AZUCENA SANDY ZIPAGAN

1 expediency and economy, Respondent chooses not to contest these
2 allegations, but to remain silent and understands that, as a
3 result thereof, these factual allegations, without being admitted
4 or denied, will serve as a prima facie basis for the disciplinary
5 action stipulated to herein. The Real Estate Commissioner shall
6 not be required to provide further evidence to prove said factual
7 allegations.

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

19 6. This Stipulation and Agreement shall not
20 constitute an estoppel, merger or bar to any further
21 administrative or civil proceedings by the Department with
22 respect to any matters which were not specifically alleged to be
23 causes for accusation in this proceeding.

24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations, admissions and
26 waivers and solely for the purpose of settlement of the pending

27 DRE No.H-8687 SF

AZUCENA SANDY ZIPAGAN

1 Accusation without hearing, it is stipulated and agreed that the
2 following Determination of Issues shall be made:

3 I

4 The acts and omissions of Respondent AZUCENA SANDY
5 ZIPAGAN as described in Paragraphs XV through XIX, inclusive, of
6 the Accusation are grounds for the suspension or revocation of
7 the licenses and license rights of Respondent AZUCENA SANDY
8 ZIPAGAN under Sections 10130, 10137 and 10240 of the California
9 Business and Professions Code (herein "the Code") in conjunction
10 with Section 10177(d) of the Code.

11 ORDER

12 I

13 All licenses and licensing rights of Respondent AZUCENA
14 SANDY ZIPAGAN under the Real Estate Law are revoked; provided,
15 however, a restricted real estate broker license shall be issued
16 to said Respondent pursuant to Section 10156.5 of the Code if,
17 within 90 days from the effective date of the Decision entered
18 pursuant to this Order, such Respondent makes application for the
19 restricted license and pays to the Department the appropriate fee
20 therefor.

22 The restricted license issued to Respondent shall be
23 subject to all of the provisions of Section 10156.7 of the Code
24 and to the following limitations, conditions and restrictions
25 imposed under authority of Section 10156.6 of the Code:

- 26 1. Any restricted license issued to Respondent

27 DRE No.H-8687 SF

AZUCENA SANDY ZIPAGAN

1 pursuant to this Decision shall be suspended for one hundred
2 (100) days from the date of issuance of said restricted license;
3 provided, however, if Respondent petitions, one hundred (100)
4 days of said one hundred (100) day suspension (or a portion
5 thereof) shall be stayed upon condition that:

6 (a) Respondent pays a monetary penalty pursuant to
7 Section 10175.2 of the Business and Professions Code at the rate
8 of \$100.00 for each day of the suspension for a total monetary
9 penalty of \$10,000.00.

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

15 (c) If Respondent fails to pay the monetary penalty in
16 accordance with the terms and conditions of the Decision, the
17 Commissioner may, without a hearing, vacate and set aside the
18 stay order, and order the immediate execution of all or any part
19 of the stayed suspension.

20 (d) No final subsequent determination be made, after
21 hearing or upon stipulation, that cause for disciplinary action
22 against Respondent occurred within two (2) years of the effective
23 date of this Decision. Should such a determination be made, the
24 Commissioner may, in his or her discretion, vacate and set aside
25 the stay order, and order the execution of all or any part of the

1 stayed suspension, in which event the Respondent shall not be
2 entitled to any repayment nor credit, prorated or otherwise, for
3 money paid to the Department under the terms of this Decision.

4 (e) If Respondent pays the monetary penalty and if no
5 further cause for disciplinary action against the real estate
6 license of Respondent occurs within two (2) years from the
7 effective date of the Decision, then the stay hereby granted
8 shall become permanent.

9 2. Any restricted license issued to Respondent
10 pursuant to this Decision may be suspended prior to hearing by
11 Order of the Commissioner in the event of Respondent's conviction
12 or plea of nolo contendere to a crime which is substantially
13 related to Respondent's fitness or capacity as a real estate
14 licensee.

15 3. Any restricted license issued to Respondent
16 pursuant to this Decision may be suspended prior to hearing by
17 Order of the Commissioner on evidence satisfactory to the
18 Commissioner that Respondent has violated provisions of the
19 California Real Estate Law, the Subdivided Lands Law, Regulations
20 of the Commissioner or conditions attaching to the restricted
21 license.

22 4. Respondent shall not be eligible to apply for the
23 issuance of an unrestricted real estate license nor for the
24 removal of any of the conditions, limitations or restrictions of
25 a restricted license until two (2) years has elapsed from the
26

1 effective date of this Decision.

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

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

22 12-23-04

23 DATED

23 
24 JAMES L. BEAVER, Counsel
25 Department of Real Estate

24 * * *

25 I have read the Stipulation and Agreement and discussed
26 it with my attorney and its terms are understood by me and are

27 DRE No.H-8687 SF

AZUCENA SANDY ZIPAGAN

1 agreeable and acceptable to me. I understand that I am waiving
2 rights given to me by the California Administrative Procedure Act
3 (including but not limited to Sections 11506, 11508, 11509, and
4 11513 of the Government Code), and I willingly, intelligently,
5 and 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 cross-
8 examine witnesses against me and to present evidence in defense
9 and mitigation of the charges.

10 12 / 16 / 04

DATED

Azucena Sandy Zipagan
AZUCENA SANDY ZIPAGAN
Respondent

12 * * *

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

15 12-16-04

DATED

Robert B Jacobs
ROBERT B. JACOBS
Attorney for Respondent

17 * * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted by me as my Decision in this matter as to Respondent
20 AZUCENA SANDY ZIPAGAN and shall become effective at 12 o'clock
21 noon on MARCH 4, 2005.

22 IT IS SO ORDERED 1-6, 2005.

24 JEFF DAVI
Real Estate Commissioner

25 [Signature]
26
27

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789
-or- (916) 227-0788 (Direct)

FILED
FEB 11 2005

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	DRE No. H-8687 SF
)	OAH No. N-2004070431
RAM KRISHNA NAIDU,)	
)	<u>STIPULATION AND AGREEMENT</u>
Respondent.)	
)	

It is hereby stipulated by and between Respondent RAM KRISHNA NAIDU (herein "Respondent"), individually and by and through C. Breck Jones, Esq., attorney of record herein for Respondent NAIDU, and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on March 12, 2004 in this matter (herein "the Accusation"):

- 1. All issues which were to be contested and all

DRE No.H-8687 SF RAM KRISHNA NAIDU

DKW

1 evidence which was to be presented by Complainant and Respondent
2 at a formal hearing on the Accusation, which hearing was to be
3 held in accordance with the provisions of the Administrative
4 Procedure Act (APA), shall instead and in place thereof be
5 submitted solely on the basis of the provisions of this
6 Stipulation and Agreement.
7

8 2. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation filed by the Department in this proceeding.
11

12 3. On March 26, 2004, Respondent filed a Notice of
13 Defense pursuant to Section 11505 of the Government Code for the
14 purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notice of Defense. Respondent acknowledges that Respondent
17 understands that by withdrawing said Notice of Defense Respondent
18 will thereby waive Respondent's right to require the Real Estate
19 Commissioner (herein "the Commissioner") to prove the allegations
20 in the Accusation at a contested hearing held in accordance with
21 the provisions of the APA and that Respondent will waive other
22 rights afforded to Respondent in connection with the hearing such
23 as the right to present evidence in defense of the allegations in
24 the Accusation and the right to cross-examine witnesses.
25
26

27 DRE No.H-8687 SF

RAM KRISHNA NAIDU

1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation. In the interests of
3 expediency 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 admitted
6 or denied, will serve as a prima facie basis for the disciplinary
7 action stipulated to herein. The Real Estate Commissioner shall
8 not be required to provide further evidence to prove said factual
9 allegations.
10

11 5. This Stipulation and Respondent's decision not to
12 contest the Accusation are made for the purpose of reaching an
13 agreed disposition of this proceeding and are expressly limited
14 to this proceeding and any other proceeding or case in which the
15 Department of Real Estate (herein "the Department"), the state or
16 federal government, an agency of this state, or an agency of
17 another state is a party.
18

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

26 DRE No.H-8687 SF

27 RAM KRISHNA NAIDU

1
2 All licenses and licensing rights of Respondent RAM
3 KRISHNA NAIDU under the Real Estate Law are revoked; provided,
4 however, a restricted real estate salesperson license shall be
5 issued to said Respondent pursuant to Section 10156.5 of the Code
6 if, within 90 days from the effective date of the Decision
7 entered pursuant to this Order, such Respondent makes application
8 for the restricted license and pays to the Department the
9 appropriate fee therefor.

11 The restricted license issued to Respondent shall be
12 subject to all of the provisions of Section 10156.7 of the Code
13 and to the following limitations, conditions and restrictions
14 imposed under authority of Section 10156.6 of the Code:

16 1. Any restricted license issued to Respondent
17 pursuant to this Decision shall be suspended for fifty (50) days
18 from the date of issuance of said restricted license; provided,
19 however, if Respondent petitions, fifty (50) days of said fifty
20 (50) day suspension (or a portion thereof) shall be stayed upon
21 condition that:

23 (a) Respondent pays a monetary penalty pursuant to
24 Section 10175.2 of the Business and Professions Code at the rate
25 of \$200.00 for each day of the suspension for a total monetary
26

27 DRE No.H-8687 SF

RAM KRISHNA NAIDU

1 penalty of \$10,000.00.

2 (b) Said payment shall be in the form of a cashier's
3 check or certified check made payable to the Recovery Account of
4 the Real Estate Fund. Said check must be received by the
5 Department prior to the effective date of the Decision in this
6 matter.

7
8 (c) If Respondent fails to pay the monetary penalty in
9 accordance with the terms and conditions of the Decision, the
10 Commissioner may, without a hearing, vacate and set aside the
11 stay order, and order the immediate execution of all or any part
12 of the stayed suspension.

13
14 (d) No final subsequent determination be made, after
15 hearing or upon stipulation, that cause for disciplinary action
16 against Respondent occurred within two (2) years of the effective
17 date of this Decision. Should such a determination be made, the
18 Commissioner may, in his or her discretion, vacate and set aside
19 the stay order, and order the execution of all or any part of the
20 stayed suspension, in which event the Respondent shall not be
21 entitled to any repayment nor credit, prorated or otherwise, for
22 money paid to the Department under the terms of this Decision.

23
24 (e) If Respondent pays the monetary penalty and if no
25 further cause for disciplinary action against the real estate

26
27 DRE No.H-8687 SF

RAM KRISHNA NAIDU

1 license of Respondent occurs, within two (2) years from the
2 effective date of the Decision, then the stay hereby granted
3 shall become permanent.

4 2. Any restricted license issued to Respondent
5 pursuant to this Decision may be suspended prior to hearing by
6 Order of the Commissioner in the event of Respondent's conviction
7 or plea of nolo contendere to a crime which is substantially
8 related to Respondent's fitness or capacity as a real estate
9 licensee.
10

11 3. Any restricted license issued to Respondent
12 pursuant to this Decision may be suspended prior to hearing by
13 Order of the Commissioner on evidence satisfactory to the
14 Commissioner that Respondent has violated provisions of the
15 California Real Estate Law, the Subdivided Lands Law, Regulations
16 of the Commissioner or conditions attaching to the restricted
17 license.
18

19 4. Respondent shall not be eligible to apply for the
20 issuance of an unrestricted real estate license nor for the
21 removal of any of the conditions, limitations or restrictions of
22 a restricted license until two (2) years has elapsed from the
23 effective date of this Decision.
24

25 5. Respondent shall, within nine months from the
26

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

13
14 6. Respondent shall, within six (6) months from the
15 issuance of the restricted license, take and pass the
16 Professional Responsibility Examination administered by the
17 Department, including the payment of the appropriate examination
18 fee. If Respondent fails to satisfy this condition, the
19 Commissioner may order the suspension of the restricted license
20 until Respondent passes the examination.
21

22 8. Respondent shall submit with any application for
23 license under an employing broker, or any application for
24 transfer to a new employing broker, a statement signed by the
25

26
27 DRE No.H-8687 SF

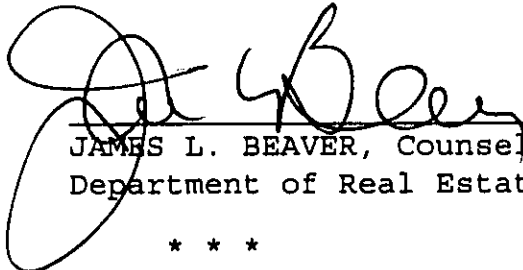
RAM KRISHNA NAIDU

1 prospective employing real estate broker on a form approved by
2 the Department of Real Estate which shall certify:

3 a. That the employing broker has read the Decision of
4 the Commissioner which granted the right to a restricted license;
5 and

6 b. That the employing broker will exercise close
7 supervision over the performance by the restricted licensee
8 relating to activities for which a real estate license is
9 required.

10
11 Dec 17 2004
12 DATED

13 
14 JAMES L. BEAVER, Counsel
Department of Real Estate
* * *

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

25 ///

26 ///

27 DRE No.H-8687 SF

RAM KRISHNA NAIDU

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and mitigation of the charges.

12-17-04

DATED

Ram Krishna Naidu

RAM KRISHNA NAIDU
Respondent

* * *

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

12-17-04

DATED

C. Breck Jones

C. BRECK JONES
Attorney for Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in this matter as to Respondent RAM KRISHNA NAIDU and shall become effective at 12 o'clock noon on

MARCH 4, 2005.

IT IS SO ORDERED 1-6, 2005.

JEFF DAVE
Real Estate Commissioner

[Signature]

DRE No.H-8687 SF

RAM KRISHNA NAIDU

RKN

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789
-or- (916) 227-0788 (Direct)

FILED
FEB 10 2005

DEPARTMENT OF REAL ESTATE
L. Jain

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	DRE No. H-8687 SF
SENH C. DUONG,)	OAH No. N-2004070431.
Respondent.)	<u>STIPULATION AND AGREEMENT</u>

It is hereby stipulated by and between Respondent SENH C. DUONG (herein "Respondent"), individually and by and through David Hamerslough, Esq., attorney of record herein for Respondent DUONG, and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on March 12, 2004 in this matter (herein "the Accusation"):

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

DRE No.H-8687 SF

SENH C. DUONG

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

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

8 3. On March 26, 2004, 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 Respondent
13 understands that by withdrawing said Notice of Defense Respondent
14 will thereby waive Respondent's right to require the Real Estate
15 Commissioner (herein "the Commissioner") to prove the allegations
16 in the Accusation at a contested hearing held in accordance with
17 the provisions of the APA and that Respondent will waive other
18 rights afforded to Respondent in connection with the hearing such
19 as the right to present evidence in defense of the allegations in
20 the Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interests of
23 expediency and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these factual allegations, without being admitted
26

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation and Respondent's decision not to
6 contest the Accusation are made for the purpose of reaching an
7 agreed disposition of this proceeding and are expressly limited
8 to this proceeding and any other proceeding or case in which the
9 Department of Real Estate (herein "the Department"), the state or
10 federal government, an agency of this state, or an agency of
11 another state is a party.

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

23 7. This Stipulation and Agreement shall not
24 constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department with
26 respect to any matters which were not specifically alleged to be
27

1 causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and
4 waivers and solely for the purpose of settlement of the pending
5 Accusation without hearing, it is stipulated and agreed that the
6 following Determination of Issues shall be made:

7 I

8 The acts and omissions of Respondent SENH C. DUONG as
9 described in Paragraphs XVII and XVIII, inclusive, of the
10 Accusation are grounds for the suspension or revocation of the
11 licenses and license rights of Respondent SENH C. DUONG under
12 Sections 10130 and 10177(d) of the California Business and
13 Professions Code (herein "the Code").

14 ORDER

15 I

16
17 A. All licenses and licensing rights of Respondent
18 SENH C. DUONG under the Real Estate Law are suspended for a
19 period of one hundred twenty five (125) days from the effective
20 date of the Decision herein; provided, however:

21 1. If Respondent petitions, seventy five (75) days of
22 said one hundred twenty five (125) day suspension (or a portion
23 thereof) shall be stayed upon condition that:

24 (a) Respondent pays a monetary penalty pursuant to
25 Section 10175.2 of the Code at the rate of \$100.00 for each day
26 of the suspension for a total monetary penalty of \$7,500.00.

27 DRE No.H-8687 SF

SENH C. DUONG

1 (b) Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received by the
4 Department prior to the effective date of the Decision in this
5 matter.

6 (c) If Respondent fails to pay the monetary penalty in
7 accordance with the terms and conditions of the Decision, the
8 Commissioner may, without a hearing, vacate and set aside the
9 stay order, and order the immediate execution of all or any part
10 of the stayed suspension.

11 (d) No final subsequent determination be made, after
12 hearing or upon stipulation, that cause for disciplinary action
13 against Respondent occurred within two (2) years of the effective
14 date of the Decision herein. Should such a determination be made,
15 the Commissioner may, in his or her discretion, vacate and set
16 aside the stay order, and order the execution of all or any part
17 of the stayed suspension, in which event the Respondent shall not
18 be entitled to any repayment nor credit, prorated or otherwise,
19 for money paid to the Department under the terms of this
20 Decision.
21

22 (e) If Respondent pays the monetary penalty and if no
23 further cause for disciplinary action against the real estate
24 license of Respondent occurs within two (2) years from the
25 effective date of the Decision herein, then the stay hereby
26 granted shall become permanent.

1 2. Fifty (50) days of said one hundred twenty five
2 (125) day suspension shall be stayed upon condition that:

3 (a) No final subsequent determination be made, after
4 hearing or upon stipulation, that cause for disciplinary action
5 against Respondent occurred within two (2) years of the
6 effective date of the Decision herein.

7 (b) Should such a determination be made, the
8 Commissioner may, in his or her discretion, vacate and set
9 aside the stay order, and order the execution of all or any
10 part of the stayed suspension, in which event the Respondent
11 shall not be entitled to any repayment nor credit, prorated or
12 otherwise, for money paid to the Department under the terms of
13 this Decision.

14 (c) If no order vacating the stay is issued, and if
15 no further cause for disciplinary action against the real
16 estate license of Respondent occurs within two (2) years from
17 the effective date of the Decision, then the stay hereby
18 granted shall become permanent.

19
20 12-17-04

21 DATED

21 
22 JAMES L. BEAVER, Counsel
23 Department of Real Estate

22 * * *

23 I have read the Stipulation and Agreement and discussed
24 it with my attorney and its terms are understood by me and are
25 agreeable and acceptable to me. I understand that I am waiving
26 rights given to me by the California Administrative Procedure Act

27 DRE No.H-8687 SF

SENH C. DUONG

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

8 12/17/04

DATED

SENH C. DUONG
Respondent

10 * * *

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

14 12/17/04

DATED

D. Hamerslough

DAVID HAMERSLOUGH
Attorney for Respondent

16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted by me as my Decision in this matter as to Respondent SENH
19 C. DUONG and shall become effective at 12 o'clock noon on

20 MARCH 3, 2005.

21 IT IS SO ORDERED 1-6, 2005.

22
23 JEFF DAVI
Real Estate Commissioner

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789
5 -or- (916) 227-0788 (Direct)

FILED
FEB 10 2005

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) DRE No. H-8687 SF
12) OAH No. N-2004070431
13 RAYMOND LEE,)
14 Respondent.) STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between Respondent
16 RAYMOND LEE (herein "Respondent"), individually and by and
17 through Thomas C. Lasken, Esq., attorney of record herein for
18 Respondent LEE, and the Complainant, acting by and through James
19 L. Beaver, Counsel for the Department of Real Estate (herein "the
20 Department"), as follows for the purpose of settling and
21 disposing of the Accusation filed on March 12, 2004 in this
22 matter (herein "the Accusation"):

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26

27 DRE No.H-8687 SF

RAYMOND LEE

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

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

8 3. On March 19, 2004, 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 Respondent
13 understands that by withdrawing said Notice of Defense Respondent
14 will thereby waive Respondent's right to require the Real Estate
15 Commissioner (herein "the Commissioner") to prove the allegations
16 in the Accusation at a contested hearing held in accordance with
17 the provisions of the APA and that Respondent will waive other
18 rights afforded to Respondent in connection with the hearing such
19 as the right to present evidence in defense of the allegations in
20 the Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interests of
23 expediency and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these factual allegations, without being admitted
26

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation and Respondent's decision not to
6 contest the Accusation are made for the purpose of reaching an
7 agreed disposition of this proceeding and are expressly limited
8 to this proceeding and any other proceeding or case in which the
9 Department of Real Estate (herein "the Department"), the state or
10 federal government, an agency of this state, or an agency of
11 another state is a party.

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

22 7. This Stipulation and Agreement shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department with
25 respect to any matters which were not specifically alleged to be
26

causes for accusation in this proceeding.

DETERMINATION OF ISSUES

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

I

The acts and omissions of Respondent RAYMOND LEE as described in Paragraphs XVII and XVIII, inclusive, of the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent RAYMOND LEE under Sections 10130 and 10177(d) of the California Business and Professions Code (herein "the Code").

ORDER

I

A. All licenses and licensing rights of Respondent RAYMOND LEE under the Real Estate Law are suspended for a period of one hundred (100) days from the effective date of the Decision herein; provided, however:

1. If Respondent petitions, fifty (50) days of said one hundred (100) day suspension (or a portion thereof) shall be stayed upon condition that:

(a) Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code at the rate of \$100.00 for each day of the suspension for a total monetary penalty of \$5,000.00.

1 (b) Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received by the
4 Department prior to the effective date of the Decision in this
5 matter.

6 (c) If Respondent fails to pay the monetary penalty in
7 accordance with the terms and conditions of the Decision, the
8 Commissioner may, without a hearing, vacate and set aside the
9 stay order, and order the immediate execution of all or any part
10 of the stayed suspension.

11 (d) No final subsequent determination be made, after
12 hearing or upon stipulation, that cause for disciplinary action
13 against Respondent occurred within two (2) years of the effective
14 date of the Decision herein. Should such a determination be made,
15 the Commissioner may, in his or her discretion, vacate and set
16 aside the stay order, and order the execution of all or any part
17 of the stayed suspension, in which event the Respondent shall not
18 be entitled to any repayment nor credit, prorated or otherwise,
19 for money paid to the Department under the terms of this
20 Decision.

21 (e) If Respondent pays the monetary penalty and if no
22 further cause for disciplinary action against the real estate
23 license of Respondent occurs within two (2) years from the
24 effective date of the Decision herein, then the stay hereby
25 granted shall become permanent.
26

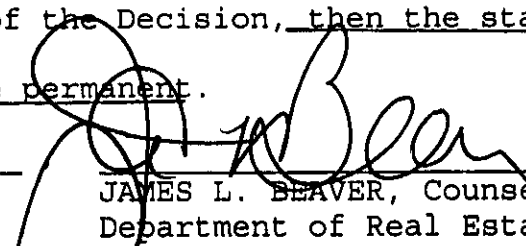
1 2. Fifty (50) days of said one hundred (100) day
2 suspension shall be stayed upon condition that:

3 (a) No final subsequent determination be made, after
4 hearing or upon stipulation, that cause for disciplinary action
5 against Respondent occurred within two (2) years of the
6 effective date of the Decision herein.

7 (b) Should such a determination be made, the
8 Commissioner may, in his or her discretion, vacate and set
9 aside the stay order, and order the execution of all or any
10 part of the stayed suspension, in which event the Respondent
11 shall not be entitled to any repayment nor credit, prorated or
12 otherwise, for money paid to the Department under the terms of
13 this Decision.

14 (c) If no order vacating the stay is issued, and if
15 no further cause for disciplinary action against the real
16 estate license of Respondent occurs within two (2) years from
17 the effective date of the Decision, then the stay hereby
18 granted shall become permanent.

19 Jan 24 2004
20 DATED


21 JAMES L. BEAVER, Counsel
22 Department of Real Estate

23 * * *

24 I have read the Stipulation and Agreement and discussed
25 it with my attorney and its terms are understood by me and are
26 agreeable and acceptable to me. I understand that I am waiving
rights given to me by the California Administrative Procedure Act

27 DRE No.H-8687 SF RAYMOND LEE

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

8 1/8/05
9 DATED RAYMOND LEE
Respondent

10 * * *

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

13
14 December 30, 2004 Thomas C. Lasken
15 DATED THOMAS C. LASKEN
Attorney for Respondent

16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted by me as my Decision in this matter as to Respondent
19 RAYMOND LEE and shall become effective at 12 o'clock noon on -
20 MARCH 3, 2005.

21 IT IS SO ORDERED 2-9-, 2005.

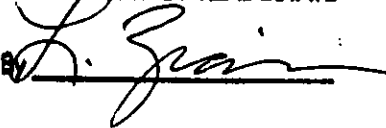
22
23 JEFF DAVIS
Real Estate Commissioner
24 [Signature]
25
26

1 DEPARTMENT OF REAL ESTATE
P. O. Box 187000
2 Sacramento, CA 95818-7000

3 Telephone: (916) 227-0789
-or- (916) 227-0788 (Direct)

FILED
FEB 10 2005

DEPARTMENT OF REAL ESTATE

BY 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	DRE No. H-8687 SF
) OAH No. N-2004070431
12 GENE RELUCANO BALGOS,)	
) <u>STIPULATION AND AGREEMENT</u>
13 Respondent.)	
14 _____)	

15 It is hereby stipulated by and between Respondent GENE
16 RELUCANO BALGOS (herein "Respondent"), individually and by and
17 through David Hamerslough, Esq., attorney of record herein for
18 Respondent BALGOS, and the Complainant, acting by and through
19 James L. Beaver, Counsel for the Department of Real Estate
20 (herein "the Department"), as follows for the purpose of settling
21 and disposing of the Accusation filed on March 12, 2004 in this
22 matter (herein "the Accusation"):

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26

27 DRE No.H-8687 SF

GENE RELUCANO BALGOS

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

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

8 3. On March 26, 2004, 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 Respondent
13 understands that by withdrawing said Notice of Defense Respondent
14 will thereby waive Respondent's right to require the Real Estate
15 Commissioner (herein "the Commissioner") to prove the allegations
16 in the Accusation at a contested hearing held in accordance with
17 the provisions of the APA and that Respondent will waive other
18 rights afforded to Respondent in connection with the hearing such
19 as the right to present evidence in defense of the allegations in
20 the Accusation and the right to cross-examine witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation. In the interests of
24 expediency and economy, Respondent chooses not to contest these
25 allegations, but to remain silent and understands that, as a
26 result thereof, these factual allegations, without being admitted
27

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation and Respondent's decision not to
6 contest the Accusation are made for the purpose of reaching an
7 agreed disposition of this proceeding and are expressly limited
8 to this proceeding and any other proceeding or case in which the
9 Department of Real Estate (herein "the Department"), the state or
10 federal government, an agency of this state, or an agency of
11 another state is a party.

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

22 7. This Stipulation and Agreement shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department with
25 respect to any matters which were not specifically alleged to be
26

1 causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations, admissions and
4 waivers and solely for the purpose of settlement of the pending
5 Accusation without hearing, it is stipulated and agreed that the
6 following Determination of Issues shall be made:

7 I

8 The acts and omissions of Respondent GENE RELUCANO
9 BALGOS as described in Paragraphs XVII and XVIII; inclusive, of
10 the Accusation are grounds for the suspension or revocation of
11 the licenses and license rights of Respondent GENE RELUCANO
12 BALGOS under Sections 10130 and 10177(d) of the California
13 Business and Professions Code (herein "the Code").

14 ORDER

15 I

16
17 A. All licenses and licensing rights of Respondent
18 GENE RELUCANO BALGOS under the Real Estate Law are suspended for
19 a period of one hundred (100) days from the effective date of the
20 Decision herein; provided, however:

21 1. If Respondent petitions, fifty (50) days of said
22 one hundred (100) day suspension (or a portion thereof) shall be
23 stayed upon condition that:

24 (a) Respondent pays a monetary penalty pursuant to
25 Section 10175.2 of the Code at the rate of \$100.00 for each day
26 of the suspension for a total monetary penalty of \$5,000.00.

27 DRE No.H-8687 SF

GENE RELUCANO BALGOS

1 (b) Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received by the
4 Department prior to the effective date of the Decision in this
5 matter.

6 (c) If Respondent fails to pay the monetary penalty in
7 accordance with the terms and conditions of the Decision, the
8 Commissioner may, without a hearing, vacate and set aside the
9 stay order, and order the immediate execution of all or any part
10 of the stayed suspension.

11 (d) No final subsequent determination be made, after
12 hearing or upon stipulation, that cause for disciplinary action
13 against Respondent occurred within two (2) years of the effective
14 date of the Decision herein. Should such a determination be made,
15 the Commissioner may, in his or her discretion, vacate and set
16 aside the stay order, and order the execution of all or any part
17 of the stayed suspension, in which event the Respondent shall not
18 be entitled to any repayment nor credit, prorated or otherwise,
19 for money paid to the Department under the terms of this
20 Decision.

21 (e) If Respondent pays the monetary penalty and if no
22 further cause for disciplinary action against the real estate
23 license of Respondent occurs within two (2) years from the
24 effective date of the Decision herein, then the stay hereby
25 granted shall become permanent.
26

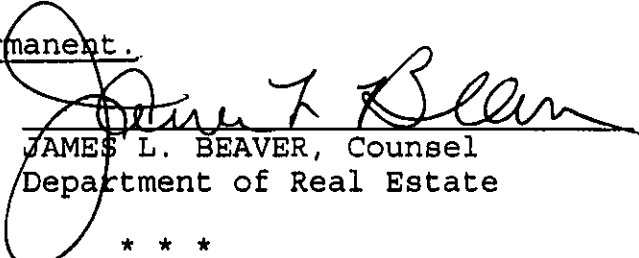
1 2. Fifty (50) days of said one hundred (100) day
2 suspension shall be stayed upon condition that:

3 (a) No final subsequent determination be made, after
4 hearing or upon stipulation, that cause for disciplinary action
5 against Respondent occurred within two (2) years of the
6 effective date of the Decision herein.

7 (b) Should such a determination be made, the
8 Commissioner may, in his or her discretion, vacate and set
9 aside the stay order, and order the execution of all or any
10 part of the stayed suspension, in which event the Respondent
11 shall not be entitled to any repayment nor credit, prorated or
12 otherwise, for money paid to the Department under the terms of
13 this Decision.

14 (c) If no order vacating the stay is issued, and if
15 no further cause for disciplinary action against the real
16 estate license of Respondent occurs within two (2) years from
17 the effective date of the Decision, then the stay hereby
18 granted shall become permanent.

19
20 December 17, 2014
21 DATED

20 
21 JAMES L. BEAVER, Counsel
22 Department of Real Estate

22 * * *


23 I have read the Stipulation and Agreement and discussed
24 it with my attorney and its terms are understood by me and are
25 agreeable and acceptable to me. I understand that I am waiving
26 rights given to me by the California Administrative Procedure Act

27 DRE No.H-8687 SF

GENE RELUCANO BALGOS

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

8 12/17/04
9 DATED


10 GENE RELUCANO BALGOS
11 Respondent

12 * * *

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

15 12/17/04
16 DATED

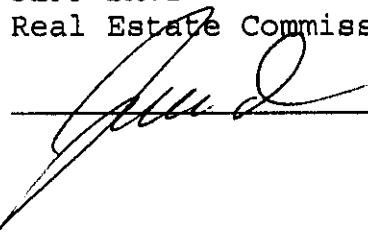
Dave Hamerslough
17 DAVID HAMERSLOUGH
18 Attorney for Respondent

19 * * *

20 The foregoing Stipulation and Agreement is hereby
21 adopted by me as my Decision in this matter as to Respondent GENE
22 RELUCANO BALGOS and shall become effective at 12 o'clock noon on

23 MARCH 3, 2005.

24 IT IS SO ORDERED 1-6-05, 2005.

25 JEFF DAVI
26 Real Estate Commissioner


27 DRE No.H-8687 SF

GENE RELUCANO BALGOS

DEPARTMENT OF REAL ESTATE
P. O. Box 187000
Sacramento, CA 95818-7000

Telephone: (916) 227-0789
-or- (916) 227-0788 (Direct)

FILED
FEB 10 2005

DEPARTMENT OF REAL ESTATE

[Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	DRE No. H-8687 SF
)	OAH No. N-2004070431
PERRY DEAN FERNANDEZ,)	
)	<u>STIPULATION AND AGREEMENT</u>
Respondent.)	
)	

It is hereby stipulated by and between Respondent PERRY DEAN FERNANDEZ (herein "Respondent"), individually and by and through David R. Sylva, Esq., attorney of record herein for Respondent FERNANDEZ, and the Complainant, acting by and through James L. Beaver, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on March 12, 2004 in this matter (herein "the Accusation"):

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

DRE No.H-8687 SF

PERRY DEAN FERNANDEZ

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

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

8 3. On March 26, 2004, 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 Respondent
13 understands that by withdrawing said Notice of Defense Respondent
14 will thereby waive Respondent's right to require the Real Estate
15 Commissioner (herein "the Commissioner") to prove the allegations
16 in the Accusation at a contested hearing held in accordance with
17 the provisions of the APA and that Respondent will waive other
18 rights afforded to Respondent in connection with the hearing such
19 as the right to present evidence in defense of the allegations in
20 the Accusation and the right to cross-examine witnesses.

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation. In the interests of
23 expediency and economy, Respondent chooses not to contest these
24 allegations, but to remain silent and understands that, as a
25 result thereof, these factual allegations, without being admitted
26

1 or denied, will serve as a prima facie basis for the disciplinary
2 action stipulated to herein. The Real Estate Commissioner shall
3 not be required to provide further evidence to prove said factual
4 allegations.

5 5. This Stipulation and Respondent's decision not to
6 contest the Accusation are made for the purpose of reaching an
7 agreed disposition of this proceeding and are expressly limited
8 to this proceeding and any other proceeding or case in which the
9 Department of Real Estate (herein "the Department"), the state or
10 federal government, an agency of this state, or an agency of
11 another state is a party.

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

22 7. This Stipulation and Agreement shall not
23 constitute an estoppel, merger or bar to any further
24 administrative or civil proceedings by the Department with
25 respect to any matters which were not specifically alleged to be
26

causes for accusation in this proceeding.

DETERMINATION OF ISSUES

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

I

The acts and omissions of Respondent PERRY DEAN FERNANDEZ as described in Paragraphs XVII and XVIII, inclusive, of the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent PERRY DEAN FERNANDEZ under Sections 10130 and 10177(d) of the California Business and Professions Code (herein "the Code").

ORDER

I

A. All licenses and licensing rights of Respondent PERRY DEAN FERNANDEZ under the Real Estate Law are suspended for a period of one hundred twenty five (125) days from the effective date of the Decision herein; provided, however:

1. If Respondent petitions, seventy five (75) days of said one hundred twenty five (125) day suspension (or a portion thereof) shall be stayed upon condition that:

(a) Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code at the rate of \$100.00 for each day of the suspension for a total monetary penalty of \$7,500.00.

1 (b) Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received by the
4 Department prior to the effective date of the Decision in this
5 matter.

6 (c) If Respondent fails to pay the monetary penalty in
7 accordance with the terms and conditions of the Decision, the
8 Commissioner may, without a hearing, vacate and set aside the
9 stay order, and order the immediate execution of all or any part
10 of the stayed suspension.

11 (d) No final subsequent determination be made, after
12 hearing or upon stipulation, that cause for disciplinary action
13 against Respondent occurred within two (2) years of the effective
14 date of the Decision herein. Should such a determination be made,
15 the Commissioner may, in his or her discretion, vacate and set
16 aside the stay order, and order the execution of all or any part
17 of the stayed suspension, in which event the Respondent shall not
18 be entitled to any repayment nor credit, prorated or otherwise,
19 for money paid to the Department under the terms of this
20 Decision.

22 (e) If Respondent pays the monetary penalty and if no
23 further cause for disciplinary action against the real estate
24 license of Respondent occurs within two (2) years from the
25 effective date of the Decision herein, then the stay hereby
26 granted shall become permanent.

1 2. Fifty (50) days of said one hundred twenty five
2 (125) day suspension shall be stayed upon condition that:

3 (a) No final subsequent determination be made, after
4 hearing or upon stipulation, that cause for disciplinary action
5 against Respondent occurred within two (2) years of the
6 effective date of the Decision herein.

7 (b) Should such a determination be made, the
8 Commissioner may, in his or her discretion, vacate and set
9 aside the stay order, and order the execution of all or any
10 part of the stayed suspension, in which event the Respondent
11 shall not be entitled to any repayment nor credit, prorated or
12 otherwise, for money paid to the Department under the terms of
13 this Decision.

14 (c) If no order vacating the stay is issued, and if
15 no further cause for disciplinary action against the real
16 estate license of Respondent occurs within two (2) years from
17 the effective date of the Decision, then the stay hereby
18 granted shall become permanent.

19 12-17-04

20 DATED


21 JAMES L. BEAVER, Counsel
22 Department of Real Estate

23 * * *

24 I have read the Stipulation and Agreement and discussed
25 it with my attorney and its terms are understood by me and are
26 agreeable and acceptable to me. I understand that I am waiving
27 rights given to me by the California Administrative Procedure Act

DRE No.H-8687 SF

PERRY DEAN FERNANDEZ

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

8 12/17/04
9 DATED

PERRY DEAN FERNANDEZ
Respondent

10 * * *

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

13 Dec 17, 2004 David R. Silva
14 DATED DAVID R. SYLVA
15 Attorney for Respondent

16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted by me as my Decision in this matter as to Respondent
19 PERRY DEAN FERNANDEZ and shall become effective at 12 o'clock
20 noon on MARCH 3, 2005.

21 IT IS SO ORDERED 16, 2005.

22 JEFF DAVI
23 Real Estate Commissioner

24 [Signature]
25
26

27 DRE No.H-8687 SF

PERRY DEAN FERNANDEZ

FILED

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

AUG 30 2004

DEPARTMENT OF REAL ESTATE

By Luis G. Zi

In the Matter of the Accusation of

AZUCENA SANDY ZIPAGAN, ET AL.,

Case No. H-8687 SF

OAH No. N-2004070341

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **JANUARY 18-21, 2005 AND JANUARY 24, 2005**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: AUGUST 30, 2004

By James L. Beaver
JAMES L. BEAVER, Counsel (12)

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000

5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED

MAR 12 2004

DEPARTMENT OF REAL ESTATE

By Laurie A. Z...

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-8687 SF
12 AZUCENA SANDY ZIPAGAN,)
13 RONALD PALANA SANTOS,) ACCUSATION
14 GENE RELUCANO BALGOS,)
15 MELVIN C. BAUTISTA,)
16 SENH C. DUONG,)
17 PERRY DEAN FERNANDEZ,)
18 RAYMOND LEE,)
19 KASEEM MOHAMMADI,)
20 RAM KRISHNA NAIDU, AND)
21 JASON P. SANTOS,)
22 Respondents.)

23 The Complainant, Janice Waddell, a Deputy Real Estate
24 Commissioner of the State of California, for cause of Accusation
25 against Respondents AZUCENA SANDY ZIPAGAN (herein "ZIPAGAN"),
26 RONALD PALANA SANTOS (herein "RON SANTOS"), GENE RELUCANO BALGOS
27 (herein "BALGOS"), MELVIN C. BAUTISTA (herein "BAUTISTA"), SENH
C. DUONG (herein "DUONG"), PERRY DEAN FERNANDEZ (herein
"FERNANDEZ"), RAYMOND LEE (herein "LEE"), KASEEM MOHAMMADI
(herein "MOHAMMADI"), RAM KRISHNA NAIDU (herein "NAIDU") and
///

1 JASON P. SANTOS (herein "JASON SANTOS") (herein collectively
2 "Respondents") is informed and alleges as follows:

3 I

4 The Complainant, Janice Waddell, a Deputy Real Estate
5 Commissioner of the State of California, makes this Accusation
6 in her official capacity.

7 II

8 Respondents ZIPAGAN, RON SANTOS, BALGOS, BAUTISTA,
9 DUONG, FERNANDEZ, LEE, MOHAMMADI, NAIDU and JASON SANTOS are
10 presently licensed and/or have license rights under the Real
11 Estate Law (Part 1 of Division 4 of the Business and Professions
12 Code) (herein "the Code").

13 III

14 At all times herein mentioned, Respondent ZIPAGAN was
15 and now is licensed by the Department as a real estate broker.

16 IV

17 At all times herein mentioned to and until
18 September 10, 2001, Respondent RON SANTOS was licensed by the
19 Department as a real estate salesperson in the employ of
20 Respondent ZIPAGAN. At all times mentioned herein from and after
21 September 11, 2001, Respondent RON SANTOS was and now is
22 licensed by the Department as a real estate broker.

23 V

24 Respondent BALGOS was not licensed by the Department
25 either as a real estate salesperson or as a real estate broker
26 any time mentioned herein prior to May 22, 2002. At all times
27 mentioned herein from and after May 22, 2002, Respondent BALGOS

1 was and now is licensed by the Department as a real estate
2 salesperson.

3 VI

4 Respondent BAUTISTA was not licensed by the Department
5 either as a real estate salesperson or as a real estate broker
6 any time mentioned herein prior to May 16, 2002. At all times
7 mentioned herein from and after May 16, 2002, Respondent
8 BAUTISTA was and now is licensed by the Department as a real
9 estate salesperson.

10 VII

11 Respondent DUONG was not licensed by the Department
12 either as a real estate salesperson or as a real estate broker
13 any time mentioned herein prior to April 30, 2002. At all times
14 mentioned herein from and after April 30, 2002, Respondent DUONG
15 was and now is licensed by the Department as a real estate
16 salesperson.

17 VIII

18 Respondent FERNANDEZ was not licensed by the
19 Department either as a real estate salesperson or as a real
20 estate broker any time mentioned herein prior to February 25,
21 2002. At all times mentioned herein from and after February 25,
22 2002, Respondent FERNANDEZ was and now is licensed by the
23 Department as a real estate salesperson.

24 IX

25 Respondent LEE was not licensed by the Department
26 either as a real estate salesperson or as a real estate broker
27 any time mentioned herein prior to March 12, 2002. At all times

1 mentioned herein from and after March 12, 2002, Respondent LEE
2 was and now is licensed by the Department as a real estate
3 salesperson.

4 X

5 Respondent MOHAMMADI was not licensed by the
6 Department either as a real estate salesperson or as a real
7 estate broker any time mentioned herein prior to December 11,
8 2001. At all times mentioned herein from and after December 11,
9 2001, Respondent MOHAMMADI was and now is licensed by the
10 Department as a real estate salesperson.

11 XI

12 Respondent NAIDU was not licensed by the Department
13 either as a real estate salesperson or as a real estate broker
14 any time mentioned herein prior to May 2, 2002. At all times
15 mentioned herein from and after May 2, 2002, Respondent NAIDU
16 was and now is licensed by the Department as a real estate
17 salesperson.

18 XII

19 Respondent JASON SANTOS was not licensed by the
20 Department either as a real estate salesperson or as a real
21 estate broker any time mentioned herein prior to April 20, 2002.
22 At all times mentioned herein from and after April 20, 2002,
23 Respondent JASON SANTOS was and now is licensed by the
24 Department as a real estate salesperson.

25 XIII

26 Alain Wesley Johnson (herein "Johnson"), Michael J.
27 Medina (herein "Medina"), Richard Gerald Moore (herein "Moore"),

1 Stella Rodriguez (herein "Rodriguez"), Gilbert Santos, Oscar
2 Uribe (herein "Uribe") or Robert Espiritu (herein "Espiritu")
3 were not licensed by the Department either as a real estate
4 salesperson or as a real estate broker at any time mentioned
5 herein.

6 XIV

7 At all times mentioned herein from on or about
8 April 1, 2001 through on or about October 31, 2001, Respondents
9 ZIPAGAN and RON SANTOS, individually and by and through BALGOS,
10 BAUTISTA, DUONG, FERNANDEZ, LEE, MOHAMMADI, NAIDU, JASON SANTOS,
11 Espiritu, Johnson, Medina, Moore, Rodriguez, Gilbert Santos, and
12 Uribe, engaged in the business of, acted in the capacity of,
13 advertised, or assumed to act as real estate brokers within the
14 State of California within the meaning of Section 10131(d) of
15 the Code, including the operation and conduct of a mortgage loan
16 brokerage business with the public wherein, on behalf of others,
17 for compensation or in expectation of compensation, Respondents
18 solicited lenders and borrowers for loans secured directly or
19 collaterally by liens on real property, and wherein Respondents
20 arranged, negotiated, processed, and consummated such loans.

21 XV

22 At all times mentioned herein from on or about
23 April 1, 2001 through on or about October 31, 2001, Respondents
24 ZIPAGAN and RON SANTOS employed and compensated BALGOS,
25 BAUTISTA, DUONG, FERNANDEZ, LEE, MOHAMMADI, NAIDU, JASON SANTOS,
26 Espiritu, Johnson, Medina, Moore, Rodriguez, Gilbert Santos, and
27 Uribe to perform the acts and conduct the activities described

1 in Paragraph XIV, above, including but not limited to employing
2 and compensating BALGOS, BAUTISTA, DUONG, FERNANDEZ, LEE,
3 MOHAMMADI, NAIDU, JASON SANTOS, Espiritu, Johnson, Medina,
4 Moore, Rodriguez, Gilbert Santos, and Uribe for negotiating and
5 arranging each and every mortgage loan transactions described in
6 Paragraphs XVI and XVII, below.

7 XVI

8 In course of the activities and employment described
9 above, without first being licensed by the Department either as
10 a real estate salesperson or as a real estate broker:

11 (a) Espiritu negotiated and arranged approximately
12 nine loans secured by liens on real property, including but not
13 limited to: (1) a \$303,000 loan from Washington Mutual to Yvonne
14 Landa secured by residential real property at 1420 Canton Drive,
15 Milpitas; and (2) a \$165,000 loan from Accubanc Mortgage to Joan
16 Burt secured by residential real property at 353 Maud Avenue,
17 San Leandro;

18 (b) Johnson negotiated and arranged approximately
19 four loans secured by liens on real property, including but not
20 limited to a \$364,000 loan from Long Beach Mortgage to Terrie
21 Kruger secured by residential real property at 7860 Church
22 Street, Gilroy;

23 (c) Medina negotiated and arranged approximately two
24 loans secured by liens on real property, including but not
25 limited to a \$273,000 loan from Accubanc Mortgage to Peggy
26 Ramirez secured by residential real property at 4587 Shadowhurst
27 Court, San Jose;

1 (d) Moore negotiated and arranged approximately three
2 loans secured by liens on real property, including but not
3 limited to a \$228,750 loan from Downey Savings to Julius Ferrer
4 secured by residential real property at 65 Silcreek Drive, San
5 Jose;

6 (e) Rodriguez negotiated and arranged approximately
7 sixteen loans secured by liens on real property, including but
8 not limited to: (1) a \$190,000 loan from World Savings to Peter
9 Perez secured by residential real property at 88 Faith Drive,
10 Watsonville; (2) a \$142,400 loan from Long Beach Mortgage to
11 Norman Davis secured by residential real property at 325 Meadow
12 Circle, Greenfield; (3) a \$160,000 loan from World Savings to
13 Manuel Lopez secured by residential real property at 425 Circle
14 Place, Salinas; and (4) a \$354,000 loan from Accubanc Mortgage
15 to Susan Martinez secured by residential real property at 590
16 Verona Place, Hollister;

17 (f) Gilbert Santos negotiated and arranged
18 approximately twenty-three loans secured by liens on real
19 property, including but not limited to: (a) a \$176,000 loan from
20 Accubank Mortgage to Deborah Cerruti secured by residential real
21 property at 148 Aurora Place, Union City; and (b) a \$376,000
22 loan from Long Beach Mortgage to Malaga Smith secured by
23 residential real property at 2629 Grant Street, Berkeley; and

24 (g) Uribe negotiated and arranged approximately four
25 loans secured by liens on real property, including but not
26 limited to a \$290,000 loan from Long Beach Mortgage to Rosario

27 ///

1 Ruiz secured by residential real property at 4001 San Ysidro
2 Way, San Jose.

3 XVII

4 In course of the activities and employment described
5 above, without first being licensed by the Department either as
6 a real estate salesperson or as a real estate broker:

7 (a) Respondent BALGOS negotiated and arranged
8 approximately six loans secured by liens on real property,
9 including but not limited to a \$250,000 loan from National City
10 Mortgage to Christopher Martin secured by residential real
11 property at 5502 Sean Circle #117, San Jose;

12 (b) Respondent BAUTISTA negotiated and arranged
13 approximately seven loans secured by liens on real property,
14 including but not limited to a \$250,000 loan from Long Beach
15 Mortgage to Larry Patterson secured by residential real property
16 at 34572 Bluestone Commons, Fremont;

17 (c) Respondent FERNANDEZ negotiated and arranged
18 approximately seven loans secured by liens on real property,
19 including but not limited to: (1) a \$315,000 loan from World
20 Savings to Marisa Calceta secured by residential real property
21 at 1063 Drexel Way, San Jose; and (2) a \$351,500 loan from New
22 Century Mortgage to Shirley Galinato secured by residential real
23 property at 1709 Sundown Lane, San Jose;

24 (d) Respondent LEE negotiated and arranged
25 approximately five loans secured by liens on real property,
26 including but not limited to: (1) a \$248,000 loan from National
27 City Mortgage to Scott Baron secured by residential real

1 property at 3440 Gold Drive, San Jose; (2) a \$713,000 loan from
2 Accubanc Mortgage to William Feichtman secured by residential
3 real property at 15209 Sycamore Drive, Morgan Hill; and (3) a
4 \$244,000 loan from Accubanc Mortgage to Mario Barzola secured by
5 residential real property at 2104 Pedro Avenue, Milpitas;

6 (e) Respondent MOHAMMADI negotiated and arranged
7 approximately nine loans secured by liens on real property,
8 including but not limited to: (1) a \$260,525 loan from Aames
9 Homes Loan to Dale Long secured by residential real property at
10 4218 West Street, Oakland; (2) a \$168,000 loan from New Century
11 Mortgage to Gwen McWilliams secured by residential real property
12 at 1174 58th Avenue, Oakland; and (3) a \$326,700 loan from Aames
13 Homes Loan to Paula Maes-Bueno secured by residential real
14 property at 18848 Times Avenue, San Lorenzo;

15 (f) Respondent NAIDU negotiated and arranged
16 approximately nine loans secured by liens on real property,
17 including but not limited to: (1) a \$291,000 loan from World
18 Savings to Alvino Ornelas secured by residential real property
19 at 731 Pronto Drive, San Jose; (2) a \$335,000 loan from Accubanc
20 Mortgage to Ralph Bumpus secured by residential real property at
21 3946 Nelson Drive, Palo Alto; and (3) a \$264,000 loan from
22 Accubanc Mortgage to Marilynne Lake secured by residential real
23 property at 4025 Heron Place, Fremont;

24 (g) Respondent JASON SANTOS negotiated and arranged
25 approximately fourteen loans secured by liens on real property,
26 including but not limited to a \$327,200 loan from New Century

27 ///

1 Mortgage to Jaime Moreno secured by residential real property at
2 1277 Monteagle Drive, San Jose; and

3 (h) Respondent DUONG negotiated and arranged
4 approximately six loans secured by liens on real property,
5 including but not limited to a \$261,000 loan from Accubanc
6 Mortgage to Roland Tharp et ux. secured by residential real
7 property at 14540 Nelson Way, San Jose.

8 XVIII

9 In acting as described above, Respondents ZIPAGAN and
10 RON SANTOS violated and/or willfully failed to comply with
11 Sections 10130 and 10137 of the Code, and Respondents BALGOS,
12 BAUTISTA, DUONG, FERNANDEZ, LEE, MOHAMMADI, NAIDU, and JASON
13 SANTOS violated and/or willfully failed to comply with Section
14 10130 of the Code.

15 XIX

16 In course of each of the transactions generally or
17 specifically identified in Paragraphs XVI and XVII, above,
18 Respondents ZIPAGAN and RON SANTOS violated and/or willfully
19 failed to comply with Section 10240 of the Code, in that
20 Respondent ZIPAGAN and RON SANTOS:

21 (a) failed to cause to be delivered to the borrowers
22 the Written Disclosure Statement required by Section 10241 of
23 the Code;

24 (b) Failed to obtain the signature of the borrowers
25 on any Written Disclosure Statement; and/or

26 ///

27 ///

1 (c) Failed to retain on file for a period of three
2 years a true and correct copy of any Written Disclosure
3 Statement signed by the borrowers.

4 XX

5 The acts and omissions of Respondents described above
6 constitute cause for the suspension or revocation of the
7 licenses and license rights of Respondents under the following
8 provisions of the Code:

9 (a) As to Paragraphs XV through XVIII, inclusive,
10 above, and Respondents ZIPAGAN and RON SANTOS under Sections
11 10130 and 10137 of the Code in conjunction with Section 10177(d)
12 of the Code;

13 (b) As to Paragraphs XVII through XVIII, inclusive,
14 above, and Respondents BALGOS, BAUTISTA, DUONG, FERNANDEZ, LEE,
15 MOHAMMADI, NAIDU, and JASON SANTOS under Section 10130 of the
16 Code in conjunction with Section 10177(d) of the Code; and

17 (c) As to Paragraph XIX, above, and Respondents
18 ZIPAGAN and RON SANTOS under Section 10240 of the Code in
19 conjunction with Section 10177(d) of the Code.

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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 license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.


JANICE WADDELL
Deputy Real Estate Commissioner

Dated at Los Angeles, California,
this 9th day of March, 2004.