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DEPARTMENT OF REAL ESTATE

By

NO. H-31019 LA

#### BEFORE THE

#### DEPARTMENT OF REAL ESTATE

#### STATE OF CALIFORNIA

In the Matter of the Accusation of )

13 ROBERT L. ORTIZ,

Respondent.

## ORDER SUSPENDING REAL ESTATE LICENSE

TO: ROBERT L. ORTIZ:

On April 7, 2005, your real estate broker license was suspended on the terms, conditions, and restrictions set forth in the Real Estate Commissioner's Order, in Case No. H-31019 LA.

Among those terms, conditions and restrictions, you were required to take and pass the Professional Responsibility Examination within six months from the effective date of the Decision. The Commissioner has determined that as of October 7, 2005, you have failed to satisfy this condition.

NOW, THEREFORE, IT IS ORDERED under authority of the Order issued in this matter that the real estate broker license heretofore issued to Respondent and the exercise of any privileges thereunder is hereby suspended until such time as you provide proof satisfactory to the Department of compliance with the "condition" referred to above, or pending final determination made after hearing (see "Hearing Rights" set forth below).

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

DEPARTMENT OF REAL ESTATE ATTN: FLAG SECTION P. O. Box 187000 Sacramento, CA 95818-7000

HEARING RIGHTS: Pursuant to the provisions of Section 10156.7 of the Business and Professions Code, you have the right to a hearing to contest the Commissioner's determination that you are in violation of the Order issued in this matter. If you desire a hearing, you must submit a written request. The request may be in any form, as long as it is in writing and indicates that you want a hearing. Unless a written request for a hearing, signed by or on behalf of you, is delivered or mailed to the Department at 2201 Broadway, P. O. Box 187000, Sacramento, California 95818-7000, within 20 days after the date that this

Order was mailed to or served on you, the Department will not be obligated or required to provide you with a hearing.

This Order shall be effective immediately.

DATED: \_\_\_\_\_\_, 2006.

JEFF DAVI Real Estate Commissioner

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No. H-31019 LA

L-2004080316

## BEFORE THE DEPARTMENT OF REAL ESTATE

### STATE OF CALIFORNIA

In the Matter of the Accusation of

TREBOR S. WEST, INC., dba America 1st Lending; and ROBERT L. ORTIZ, individually

and as designated officer of Trebor S. West, Inc.,

Respondents.

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ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On June 22, 2004, an Accusation was filed in this matter against Respondent TREBOR S. WEST, INC.

On February 24, 2005, Respondent petitioned the Commissioner to voluntarily surrender its real estate corporation license pursuant to Section 10100.2 of the Business and Professions Code.

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IT IS HEREBY ORDERED that Respondent TREBOR S. WEST, 1 INC.'s petition for voluntary surrender of its real estate 2 corporation license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated February 24, 2005 (attached as Exhibit "A" hereto). Respondent's б license certificate(s), pocket card(s) and any branch office license certificate(s) shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order: 10 Department of Real Estate 11 Licensing Flag Section Attn: P.O. Box 187000 12 Sacramento, CA 95818-7000 13 This Order shall become effective at 12 o'clock noon 14 April 7, 2005. 15 DATED: 16 17 JEFF DAVI Real Estate Commissioner 18 20 21

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EXHIBIT "A"

## BEFORE THE DEPARTMENT OF REAL ESTATE

## STATE OF CALIFORNIA

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No. H-31019 LA

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TREBOR S. WEST, INC., Dba America 1" Lending; and ROBERT L. ORTIZ, individually And as designated officer of Trebor S. West, Inc.,

In the Matter of the Accusation of

L-2004080316

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Respondent.

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## **DECLARATION**

My name is ROBERT L. ORTIZ and I am currently an officer of TREBOR S. WEST, INC., which is licensed as a real estate broker and/or has license rights with respect to said license. I am authorized and empowered to sign this declaration on behalf of TREBOR S. WEST, INC. TREBOR S. WEST, INC. is represented in this matter by Frank M. Buda, Attorney at Law.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Business and Professions Code) TREBOR S.

WEST, INC., wishes to voluntarily surrender its real estate

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license issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that TREBOR S. WEST, INC., by so voluntarily surrendering its license, can only have it reinstated in accordance with the provisions of Section 11522 of the Government Code. I also understand that by so voluntarily surrendering its license, TREBOR S. WEST, INC., agrees to the following:

The filing of this Declaration shall be deemed as its petition for voluntary surrender. It shall also be deemed to be an understanding and agreement by TREBOR S. WEST, INC., that, it waives all rights it has to require the Commissioner to prove the allegations contained in the Accusation filed in this matter at a hearing held in accordance with the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.), and that it also waives other rights afforded to it in connection with the hearing such as the right to discovery, the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses. agree on behalf of TREBOR S. WEST, INC., that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence obtained by the Department in this matter prior to the Commissioner's acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-31019 LA, may be considered by the Department to be true and correct for the purpose of deciding whether or not to

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FROM : TWS>Park Aum Rx Date/Time

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FRANK BUDA ESQ.

P. 004 PAGE 84/11

PEB-24-05 THU 04:50 PM

FAX NO. 2135768917.

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grant reinstatement of TREBOR S. WEST INC'S, license pursuant to Government Code Section 11522.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am acting freely and voluntarily on behalf of TREBOR S. west, INC., to surrender its license and all license rights attached thereto.

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PREBOR S. WEST, INC By: ROBERT L. ORTIZ

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grant reinstatement of TREBOR S. WEST INC'S, license pursuant to Government Code Section 11522.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that I am acting freely and voluntarily on behalf of TREBOR S. WEST, INC., to surrender its license and all license rights attached thereto.

Date and Place

TREBOR S. WEST, INC. By: ROBERT L. ORTIZ

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Department of Real Estate 320 West Fourth Street, Suite 350 Los Angeles, California 90013-1105

Telephone: (213) 576-6982

-or- (213) 576-6910 (Direct)



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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

TREBOR S. WEST, INC.,
dba American 1<sup>st</sup> Lending; and
ROBERT L. ORTIZ, individually and
as designated officer of
Trebor S. West, Inc.,

Respondents.

NO. H-31019 LA

L-2004080316

STIPULATION AND AGREEMENT

It is hereby stipulated by and between ROBERT L.

ORTIZ, individually and as designated officer of Trebor S.

West, Inc. (hereafter "Respondent"), represented by Frank M.

Buda, Esq., and the Complainant, acting by and through Chris

Leong, Counsel for the Department of Real Estate, as follows

for the purpose of settling and disposing of the Accusation

filed on June 22, 2004, as to Respondent ROBERT L. OPRTIZ. The

matter as to TREBOR S. WEST, INC., dba American 1st Lending,

will be handled separately.

 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 held in accordance with the provisions of the Administrative Procedure Act, shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement (hereafter "Stipulation").

- 2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the Administrative Procedure Act and the Accusation, filed by the Department of Real Estate in this proceeding.
- 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation.

  Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of Defense that he will thereby waive his right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the Administrative Procedure Act and that Respondent will waive other rights afforded to him in connection with the hearing, such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.
- 4. In the interest of expedience and economy,
  Respondent chooses not to proceed with the hearing, contest the
  factual allegations in Paragraphs I through V of the
  Accusation, but to remain silent and understands that, as a
  result thereof, these factual statements, without being

admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Real Estate Commissioner shall not be required to provide further evidence to prove such allegations.

- 5. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation as his Decision in this matter, thereby imposing the penalty and sanctions on Respondent's real estate license and license rights as set forth in the "Order" below. In the event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and of no effect, and Respondent shall retain the right to a hearing and proceeding on the Accusation under all the provisions of the Administrative Procedure Act and shall not be bound by any admission or waiver made herein.
- 6. The stipulation herein, and Respondent's decision not to contest the Accusation, are made solely for the purpose of reaching an agreed disposition of this proceeding and are expressly limited to this proceeding and any other proceeding or case in which the Department of Real Estate or another licensing agency of this state, another state or if the federal government is involved, and otherwise shall not be admissible in any other criminal or civil proceedings.
- 7. The Order or any subsequent Order of the Real
  Estate Commissioner made pursuant to this Stipulation shall not
  constitute an estoppel, merger or bar to any further
  administrative or civil proceedings by the Department of Real
  Estate with respect to any conduct which was not specifically

alleged to be causes for accusation in this proceeding.

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

DETERMINATION OF ISSUES

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The conduct, acts and omissions of Respondent, as alleged in the Accusation, are grounds for the suspension or revocation of all real estate licenses and license rights of Respondent under the provisions of Code Section 10137.

#### <u>ORDER</u>

## WHEREFORE, THE FOLLOWING ORDER is hereby made:

- 1. All licenses and licensing rights of Respondent

  ROBERT L. ORTIZ, under the Real Estate Law shall be suspended for a period of ninety (90) days from the effective date of this Decision; provided, however, that the final sixty (60) days of the ninety (90) day suspension shall be stayed for two (2) years upon the following terms and conditions:
- (a) Respondent shall obey all laws, rules and regulations governing the rights, duties and responsibilities of a real estate licensee in the State of California; and
- (b) That no final subsequent determination be made, after hearing or upon stipulation, that cause for disciplinary action occurred within two (2) years of the effective date of this Decision. Should such a determination be made, the

Commissioner may, in his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.

- 2. If Respondent petitions, the initial thirty (30) days of said suspension or a portion thereof shall be stayed upon condition that:
- (a) Pursuant to Code Section 10175.2, Respondent pays a monetary penalty at the rate of One Hundred Dollars (\$100.00) per day for a total monetary penalty of Three Thousand Dollars (\$3,000.00).
- (b) Said payment shall be in the form of a cashier's check or certified check made payable to the Recovery Account of the Real Estate Fund. Said check must be received by the .

  Department prior to the effective date of the Decision in this matter.
- (c) No further cause for disciplinary action against the real estate license of Respondent occurs within two (2) years from the effective date of the Decision in this matter.
- (d) If Respondent fails to pay the monetary penalty in accordance with the terms and conditions of the Decision, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event the Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

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

3. Respondent shall, within six (6) months from the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination.

DATED: 3/1/05	. Chous boonly
	CHRIS LEONG, ESQ.
	Councel for Complainant

\* \* \*

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

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818 501 8465 FRANK BUDA ESQ.

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P. 10

present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Dopartment a fax copy of his actual signature as it appears on the Stipulation and Agraement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had roceived the original staned Stipulation and Agreement.

ORTIZ, Respondent

Counsel for Respondent Approved as to form

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

IT IS SO ORDERED

JEFF DAVI Real Estate Commissioner

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present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED:	
	ROBERT L. ORTIZ, Respondent
DATED:	•
DATED:	FRANK M. BUDA, ESQ. Counsel for Respondent Approved as to form

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on April 7, 2005.

IT IS SO ORDERED 39-05

TT IS SO ORDERED \_\_\_

JEFF DAVI Real Estate Commissioner

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# BEFORE THE DEPARTMENT OF REAL ESTATE STATE OF CALIFORNIA

In the Matter of the Accusation of )

TREBOR S. WEST, INC., dba America 1" Lending; and ROBERT L. ORTIZ, individually and as designated officer of

Respondent(s)

Trebor S. West, Inc.,

Case No. **H-31019 LA** 

OAH No. L-2004080316

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## NOTICE OF CONTINUED HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on FRIDAY, FEBRUARY 25, 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 subpenas 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: November 30, 2004

Bv

HRIS LEONG, Counse

cc: Robert L. Ortiz

Frank M. Buda, Esq.

Sacto.

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# BEFORE THE DEPARTMENT OF REAL ESTATE

## STATE OF CALIFORNIA

In the Matter of the Accusation of )

TREBOR S. WEST, INC., dba America 1" Lending; and ROBERT L. ORTIZ, individually and as designated officer of

Respondent(s)

Trebor S. West, Inc.,

Case No. H-31019 LA

OAH No. L-2004080316

EPARTMENT OF REAL ESTAY:

## NOTICE OF HEARING ON ACCUSATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on THURSDAY, DECEMBER 30, 2004, 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 subpenas 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

September 22, 2004 Dated: Ву

CHRIS LEONG, Counsel

Robert L. Ortiz CC:

Frank M. Buda, Esq.

/Sacto.

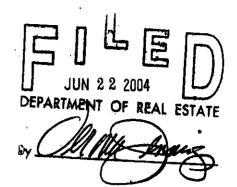
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JAMES R. PEEL, Counsel (SBN 47055) Department of Real Estate 320 West Fourth Street, Ste. 350 Los Angeles, California 90013-1105

Telephone: (213) 576-6982

-or- (213) 576-6913 (Direct)



No. H-31019 LA

ACCUSATION

#### DEPARTMENT OF REAL ESTATE

#### STATE OF CALIFORNIA

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In the Matter of the Accusation of

TREBOR S. WEST, INC., dba America 1st Lending; and

ROBERT L. ORTIZ, individually and as designated officer of Trebor S. West, Inc.,

Respondents.

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The Complainant, Maria Suarez, a Deputy Real Estate

Commissioner of the State of California, for cause of accusation

against TREBOR S. WEST, INC., dba America 1st Lending; and ROBERT

L. ORTIZ, individually and as designated officer of Trebor S.

West, Inc., alleges as follows:

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The Complainant, Maria Suarez, acting in her official capacity as a Deputy Real Estate Commissioner of the State of California, makes this Accusation against TREBOR S. WEST, INC., dba America 1<sup>st</sup> Lending; and ROBERT L. ORTIZ, individually and as designated officer of Trebor S. West, Inc.

II

TREBOR S. WEST, INC. and ROBERT L. ORTIZ (hereinafter referred to as "Respondents") are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code").

#### III

At all times herein mentioned, respondent TREBOR S.

WEST, INC., was licensed by the Department of Real Estate of the

State of California as a corporate real estate broker, and

respondent ROBERT L. ORTIZ was licensed as the designated broker
officer of said corporation and was responsible for the

supervision and control of the activities conducted on behalf of

respondent TREBOR S. WEST, INC., by its officers and employees as

necessary to secure full compliance with Real Estate Law as set

forth in Section 10159.2 of the Code.

IV

At all times herein mentioned, respondent TREBOR S.

WEST, INC., on behalf of others in expectation of compensation,
engaged in the business, acted in the capacity of, advertised or
assumed to act as a real estate broker in the State of California
within the meaning of Section 10131(d) of the Code, including
soliciting borrowers and lenders and negotiating loans on real
property.

V

In connection with respondents' activities as real estate brokers, as described above, respondents TREBOR S. WEST, INC. and ROBERT L. ORTIZ acted in violation of the Real Estate

Law, the Code and California Code of Regulations (hereinafter Regulations), Title 10, Chapter 6, as follows:

- 1. Violated Section 10137 of the Code by employing William Barahona, while an unlicensed real estate broker or salesperson, to solicit and negotiate loans on real property, as set forth below:
- (a) On or about August 19, 2001, a loan on 2943 Estara, Los Angeles, California, for borrower Luis M. Guzman.
- (b) On or about August 9, 2001, a loan on 9471 Fremontia, Fontana, California, for borrower Socorro Perez.
- 2. Violated Regulation 2742, in that on October 29, 2002, the Secretary of State notified the Franchise Tax Board that the corporate powers, rights and privileges of Respondent TREBOR S. WEST, INC., had been suspended for failure to file a statement pursuant to Section 1502 of the California Corporations Code.

VI

The conduct of respondents TREBOR S. WEST, INC., and ROBERT L. ORTIZ, as alleged above, subjects their real estate licenses and license rights to suspension or revocation pursuant to Sections 10137 and 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 TREBOR S. WEST, INC., dba America 1st Lending; and ROBERT L. ORTIZ, individually and as designated officer of Trebor S. West, Inc., 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. Dated at Los Angeles, California, this day of America 1, 2004.

Deputy Real Estate Commissioner

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 cc: Trebor S. West, Inc.
Robert L. Ortiz
Maria Suarez
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