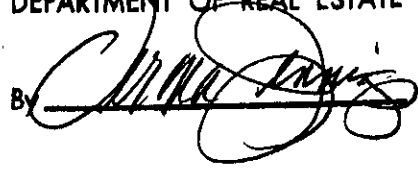


1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

FILED
JAN 30 2006
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)	No. H-31768 LA
12	JAIME M. MARTINEZ, dba Future)	
13	Investments, and dba Latin)	<u>STIPULATION AND AGREEMENT</u>
14	Homes Real Estate;)	
15	and IVAN MARK,)	
16	Respondents.)	
17)	

18 It is hereby stipulated by and between JAIME M.
19 MARTINEZ, and his attorney Frank M. Buda, and IVAN MARK and his
20 attorney Mary E. Work (sometimes referred to as Respondents),
21 and the Complainant, acting by and through James R. Peel,
22 Counsel for the Department of Real Estate, as follows for the
23 purpose of settling and disposing of the Accusation filed on
24 March 17, 2005, in this matter.

26 1. All issues which were to be contested and all
27 evidence which was to be presented by Complainant and

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

6 2. Respondents have received, read and understand the
7 Statement to Respondent, the Discovery Provisions of the
8 Administrative Procedure Act ("APA") and the Accusation filed by
9 the Department of Real Estate in this proceeding.

10 3. On March 29, 2005, Respondent JAMIE M. MARTINEZ,
11 and on April 26, 2005, Respondent IVAN MARK, filed a Notice of
12 Defense pursuant to Section 11506 of the Government Code for the
13 purpose of requesting a hearing on the allegations in the
14 Accusation. Respondents hereby freely and voluntarily withdraw
15 said Notice of Defense. Respondents acknowledge that they
16 understand that by withdrawing said Notice of Defense they will
17 thereby waive their right to require the Commissioner to prove
18 the allegations in the Accusation at a contested hearing held in
19 accordance with the provisions of the APA and that they will
20 waive other rights afforded to them in connection with the
21 hearing, such as the right to present evidence in defense of the
22 allegations in the Accusation and the right to cross-examine
23 witnesses.

24 4. This Stipulation is based on the factual
25 allegations contained in the Accusation filed in this
26 proceeding. In the interest of expedience and economy,
27

1 Respondents choose not to contest these factual allegations, but
2 to remain silent and understand that, as a result thereof, these
3 factual statements, will serve as a prima facie basis for the
4 disciplinary action stipulated to herein. The Real Estate
5 Commissioner shall not be required to provide further evidence
6 to prove such allegations.

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

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

24 7. The Order or any subsequent Order of the Real
25 Estate Commissioner made pursuant to this Stipulation shall not
26 constitute an estoppel, merger or bar to any further
27

1 administrative or civil proceedings by the Department of Real
2 Estate with respect to any conduct which was not specifically
3 alleged to be causes for accusation in this proceeding.

4 DETERMINATION OF ISSUES

5 By reason of the foregoing stipulations and waivers
6 and solely for the purpose of settlement of the pending
7 Accusation without a hearing, it is stipulated and agreed that
8 the following determination of issues shall be made:

9 I

10 The conduct, acts and/or omissions of Respondent
11 JAMIE M. MARTINEZ, as set forth in the Accusation, constitute
12 cause for the suspension or revocation of all of the real estate
13 licenses and license rights of Respondent under the provisions
14 of Sections 10137 and 10177(g) of the Business and Professions
15 Code.

16 II

17 The conduct, acts and/or omissions of Respondent IVAN
18 MARK, as set forth in the Accusation, constitute cause for the
19 suspension or revocation of all of the real estate licenses and
20 license rights of Respondent under the provisions of Sections
21 10130 and 10177(g) of the Business and Professions Code.

22 ORDER

23 All licenses and licensing rights of Respondents JAMIE
24 M. MARTINEZ, and IVAN MARK under the Real Estate Law are
25 suspended for a period of ninety (90) days from the effective
26 date of this Decision; provided, however, that thirty (30) days
27

1 of said suspension shall be stayed for two (2) years upon the
2 following terms and conditions:

3 1. Respondents shall obey all laws, rules and
4 regulations governing the rights, duties and responsibilities of
5 a real estate licensee in the State of California; and

6 2. That no final subsequent determination be made,
7 after hearing or upon stipulation that cause for disciplinary
8 action occurred within two (2) years of the effective date of
9 this Decision. Should such a determination be made, the
10 Commissioner may, in his discretion, vacate and set aside the
11 stay order and reimpose all or a portion of the stayed
12 suspension. Should no such determination be made, the stay
13 imposed herein shall become permanent.

14 3. Provided, however, that if Respondents petition,
15 the remaining sixty (60) days of said ninety (90) day suspension
16 shall be stayed upon condition that:

17 a. Respondents pay a monetary penalty pursuant to
18 Section 10175.2 of the Business and Professions Code at the rate
19 of \$166.66 for each day of the suspension for a total monetary
20 penalty of \$10,000 (\$20,000 for both Respondents).

21 b. Said payment shall be in the form of a
22 cashier's check or certified check made payable to the Recovery
23 Account of the Real Estate Fund. Said check must be received by
24 the Department prior to the effective date of the Decision in
25 this matter.
26
27

1 c. No further cause for disciplinary action
2 against the real estate licenses of Respondent occurs within two
3 (2) years from the effective date of the Decision in this
4 matter.

5 d. If Respondents fail to pay the monetary
6 penalty in accordance with the terms and conditions of the
7 Decision, the Commissioner may, without a hearing, order the
8 immediate execution of all or any part of the stayed suspension
9 in which event the Respondents shall not be entitled to any
10 repayment nor credit, prorated or otherwise, for money paid to
11 the Department under the terms of this Decision.

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

17
18
19 DATED: Nov. 3, 2005

James R. Peel
JAMES R. PEEL, Counsel for the
Department of Real Estate

20
21 * * *

22 We have read the Stipulation and Agreement, have
23 discussed it with our counsel, and its terms are understood by
24 us and are agreeable and acceptable to us. We understand that
25 we are waiving rights given to us by the California
26 Administrative Procedure Act (including but not limited to
27 Sections 11506, 11508, 11509 and 11513 of the Government Code),

1 and we willingly, intelligently and voluntarily waive those
2 rights, including the right of requiring the Commissioner to
3 prove the allegations in the Accusation at a hearing at which we
4 would have the right to cross-examine witnesses against us and
5 to present evidence in defense and mitigation of the charges.

6 Respondents can signify acceptance and approval of the
7 terms and conditions of this Stipulation and Agreement by faxing
8 a copy of the signature page, as actually signed by Respondents,
9 to the Department at the following telephone/fax number:

10 (213) 576-6917. Respondents agree, acknowledge and understand
11 that by electronically sending to the Department a fax copy of
12 his or her actual signature as it appears on the Stipulation and
13 Agreement, that receipt of the faxed copy by the Department
14 shall be as binding on Respondents as if the Department had
15 received the original signed Stipulation and Agreement.

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From:FAMILY HOME LOAN ESCROW DIV562 904 9986

11/02/2005 16:27 #251 P.001

11/02/2005 18:53 818-999-9869
NOV-02-05 WED 03:44 PM

FRANK BUDA ESQ.
FAX NO.

PAGE 03/03
P. 08

Further, if the Respondents are represented, the Respondents' counsel can signify his or her agreement to the terms and conditions of the Stipulation and Agreement by submitting that signature via fax.

DATED: 11-2-05

Jaime M. Martinez
JAIME M. MARTINEZ,
Respondent

DATED: 11-2-05

Frank M. Buda
FRANK M. BUDA,
Counsel for Respondent
Jaime M. Martinez

DATED: _____

IVAN MARK,
Respondent

DATED: _____

MARY E. WORK
Counsel for Respondent
Ivan Mark

* * *

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

IT IS SO ORDERED _____

JEFF DAVIS
Real Estate Commissioner

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Further, if the Respondents are represented, the Respondents' counsel can signify his or her agreement to the terms and conditions of the Stipulation and Agreement by submitting that signature via fax.

DATED: _____

JAIME M. MARTINEZ,
Respondent

DATED: _____

FRANK H. BUDA,
Counsel for Respondent
Jaime M. Martinez

DATED: 11-2-05

Ivan Mark

IVAN MARK,
Respondent

DATED: 11-2-05

Mary E. Work

MARY E. WORK
Counsel for Respondent
Ivan Mark

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

IT IS SO ORDERED _____

JEFF DAVI
Real Estate Commissioner

1 Further, if the Respondents are represented, the
2 Respondents' counsel can signify his or her agreement to the
3 terms and conditions of the Stipulation and Agreement by
4 submitting that signature via fax.

5
6 DATED: _____ JAIME M. MARTINEZ,
7 Respondent

8 DATED: _____ FRANK M. BUDA,
9 Counsel for Respondent
10 Jaime M. Martinez

11 DATED: _____ IVAN MARK,
12 Respondent

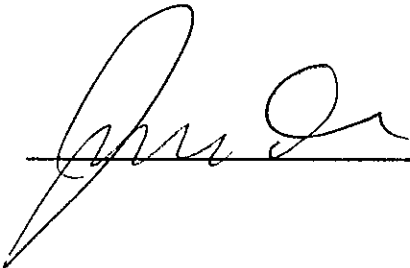
13
14 DATED: _____ MARY E. WORK
15 Counsel for Respondent
16 Ivan Mark

17 * * *

18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision and Order in this matter, and shall
20 become effective at 12 o'clock noon on February 21, 2006.

21 IT IS SO ORDERED 11-16-05.

22
23 JEFF DAVI
24 Real Estate Commissioner

25
26 
27 _____

Sacto Joe

FILED
MAR 17 2005
DEPARTMENT OF REAL ESTATE

1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth Street, Suite #350
4 Los Angeles, California 90013-1105

By *Jaime B. Oliva*

4 (213) 576-6982
5 (213) 576-6907

6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-31768 LA
12)
13 JAIME M. MARTINEZ, dba Future) A C C U S A T I O N
14 Investments, and dba Latin Homes)
15 Real Estate; and)
16 IVAN MARK,)
17 Respondents.)

18 The Complainant, Maria Suarez, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against JAIME M. MARTINEZ, dba Future Investments, and dba Latin
21 Homes Real Estate (hereinafter "Respondent MARTINEZ"); and IVAN
22 MARK, aka Ivan Flores and aka Ivan Flores Leceta (hereinafter
23 "Respondent MARK"), is informed and alleges as follows:

24 1.

25 The Complainant, Maria Suarez, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation in
27

1 her official capacity.

2 2.

3 At all times material herein, Respondent MARTINEZ was
4 and is licensed by the Department as a real estate broker. At
5 all times material herein, Respondent MARTINEZ employed
6 Respondent MARK as a real estate salesperson. Respondent
7 MARTINEZ was first licensed by the Department in 1987.

8 3.

9 Respondent MARK is currently licensed and/or has
10 license rights as a real estate salesperson. Respondent MARK was
11 first licensed by the Department as a conditional real estate
12 salesperson in 1987. Respondent MARK's license history includes
13 the following periods of suspension, inactivity due to lack of
14 employing broker on record with the Department, and/or expiration
15 of his license:

16 March 2, 1989 - September 16, 1989: Respondent's
17 conditional salesperson license was suspended for failure to
18 complete the continuing education requirements.

19 July 20, 1999 - September 23, 1999: Respondent's
20 license was suspended pursuant to Welfare and Institutions Code
21 Section 11350.6.

22 May 27, 1999 - January 12, 2001: On or about May 27,
23 1999, the Department received a Salesperson Change Application
24 from Mulhearn Realtors indicating that Respondent MARK was
25 terminated from their employ as of May 25, 1999. On or about
26 January 12, 2001, the Department received a Salesperson Change
27

1 Application from Respondent MARTINEZ indicating that Respondent
2 MARK was employed by Respondent MARTINEZ as of January 3, 2001.

3 December 14, 2001 - May 1, 2003: Respondent's
4 salesperson license expired on December 14, 2001 and was not
5 renewed until May 1, 2003.

6 4.

7 All further references to "Respondents", unless
8 otherwise specified, include Respondents MARTINEZ and MARK, the
9 parties identified in Paragraphs 2 and 3 above, and also include
10 the officers, directors, employees, agents and real estate
11 licensees employed by or associated with said parties, who at all
12 times material herein were engaged in the furtherance of the
13 business or operations of said parties and who were acting within
14 the course and scope of their authority, agency or employment.

15 5.

16 At all times material herein, Respondent MARTINEZ
17 engaged in the business of, acted in the capacity of, advertised
18 or assumed to act as a real estate broker in the State of
19 California, within the meaning of Code Section 10131(a), for
20 another or others, for or in expectation of compensation. Said
21 activity included selling, offering to sell, buying or offering
22 to buy, soliciting prospective sellers or purchasers, and
23 negotiating the purchase, sale or exchange of real property for
24 another or others in expectation of compensation, and performing
25 escrow activities in relation to these purchase and sale
26 transactions pursuant to the exemption set forth in Financial
27 Code Section 17006(a)(4).

1 6.

2 On or about June 7, 1999, Respondent MARTINEZ executed
3 a "Broker-Salesperson Contract" whereby he, as broker, employed
4 Respondent MARK as a real estate salesperson. The contract
5 purported to create an "independent contractor" relationship
6 between MARTINEZ and MARK whereby MARK would receive a commission
7 on sales of real estate as set forth in "Commission Schedules"
8 attached as Exhibits to the contract. On or about January 12,
9 2001, Respondent MARTINEZ first notified the Department of his
10 employment of Respondent MARK by submitting a Salesperson Change
11 Application. Respondent MARK's license expired on December 14,
12 2001 and was not renewed until May 1, 2003.

13 7.

14 Between December 15, 2001 through May 1, 2003,
15 Respondent MARK represented purchasers and/or sellers in real
16 estate transactions in expectation of compensation. During this
17 period of time, Respondent MARK was employed and received
18 commissions from Respondent MARTINEZ for his work representing
19 purchasers and sellers of real estate. During this time,
20 Respondent MARK completed approximately 17 transactions, obtained
21 approximately six listings and was paid a total of \$60,471.61 in
22 commissions.

23 8.

24 On or about January 5, 2002, Respondent MARK, acting as
25 agent for Respondent MARTINEZ, dba Latin Homes, executed a
26 Residential Listing Agreement whereby William and Barbara Reeves
27 as sellers agreed to employ Latin Homes to sell their property

1 located at 11415 Mullen St in Santa Fe Springs, CA.

2 9.

3 On or about January 25, 2002, escrow instructions were
4 issued calling for a commission to be paid to Latin Homes Real,
5 with IVAN MARK listed as the agent. Respondent MARTINEZ signed
6 the escrow instructions to pay a commission to MARK.

7 10.

8 On or about March 19, 2002, Escrow No. 504-LA closed at
9 Latin Homes Escrow Division. On or about March 20, 2002,
10 Respondent MARTINEZ issued check from Latin Homes Real Estate,
11 Check No. 1428, to Respondent MARK in the amount of \$1,897.93.
12 This check was for a commission on the Lizarraga transaction.

13 11.

14 The foregoing violations constitute cause for the
15 suspension or revocation of Respondent MARTINEZ and Respondent
16 MARK's real estate licenses and/or license rights under the
17 provisions of Code Sections 10130, 10137, 10177(g) and/or
18 10177(h) and Title 10, Chapter 6 of the California Code of
19 Regulations, Regulation 2731.

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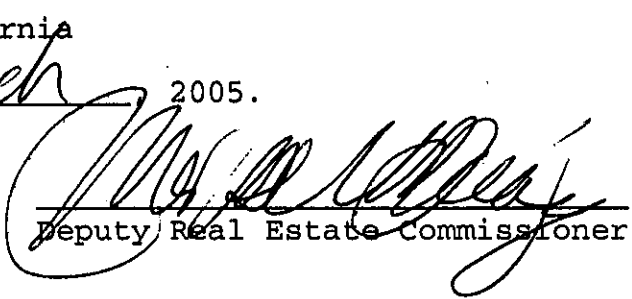
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27 ///

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent
5 JAIME MARTINEZ and Respondent IVAN MARK under the Real Estate Law
6 (Part 1 of Division 4 of the Business and Professions Code), and
7 for such other and further relief as may be proper under other
8 applicable provisions of law.

9 Dated at Los Angeles, California

10 this 17th day of March 2005.

11
12 
13 Deputy Real Estate Commissioner
14
15
16
17

18 cc: Jaime Martinez
19 Ivan Mark
20 Maria Suarez
21 Janice Waddell
22 Sacto.
23
24
25
26
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