

FILED

FEB 19 2013

DEPARTMENT OF REAL ESTATE  
BY: 

1 Department of Real Estate  
2 320 W. 4<sup>TH</sup> Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

5  
6  
7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

No. H-37452 LA

12 CONQUISTAMERICA INC; and )

STIPULATION

13 ARTURO JESUS OCHOA, )

AND

14 individually and as designated )  
15 officer of ConquistAmerica Inc, )

AGREEMENT

16 Respondents. )

17 It is hereby stipulated by and between Respondent  
18 ARTURO JESUS OCHOA, ("Respondent"), and his attorney of record,  
19 Mary E. Work, and the Complainant, acting by and through Amelia  
20 V. Vetrone, Counsel for the Department of Real Estate, as follows  
21 for the purpose of settling and disposing of the Accusation filed  
22 on August 18, 2011, in this matter:

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 held in accordance with the provisions of the Administrative  
27 Procedure Act ("APA"), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this  
2 Stipulation and Agreement ("Stipulation").

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

7           3. Respondent filed a Notice of Defense pursuant to  
8 Section 11506 of the Government Code for the purpose of  
9 requesting a hearing on the allegations in the Accusation.  
10 Respondent hereby freely and voluntarily withdraws said Notice of  
11 Defense. Respondent acknowledges that he understands that by  
12 withdrawing said Notice of Defense he thereby waives his right to  
13 require the Commissioner to prove the allegations in the  
14 Accusation at a contested hearing held in accordance with the  
15 provisions of the APA and that he will waive other rights  
16 afforded to him in connection with the hearing such as the right  
17 to present evidence in his defense, and the right to cross-  
18 examine witnesses.

19           4. This Stipulation is based on the factual  
20 allegations contained in the Accusation. In the interest of  
21 expedience and economy Respondent chooses not to contest these  
22 allegations but to remain silent and understands that, as a  
23 result thereof, these factual allegations, without being admitted  
24 or denied, will serve as a prima facie basis for the disciplinary  
25 action stipulated to herein. The Real Estate Commissioner shall  
26 not be required to provide further evidence to prove said factual  
27 allegations.

1           5. This Stipulation is made for the purpose of  
2 reaching an agreed disposition of this proceeding and is  
3 expressly limited to this proceeding and any other proceeding or  
4 case in which the Department of Real Estate ("Department"), or  
5 another licensing agency of this state, another state, or the  
6 federal government is involved, and otherwise shall not be  
7 admissible in any other criminal or civil proceeding.

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

18           7. The Order or any subsequent Order of the Real  
19 Estate Commissioner made pursuant to this Stipulation shall not  
20 constitute an estoppel, merger or bar to any further  
21 administrative or civil proceedings by the Department of Real  
22 Estate with respect to any matters which were not specifically  
23 alleged to be causes for accusation in this proceeding.

24           8. Respondent understands that by agreeing to this  
25 Stipulation, Respondent agrees to pay, pursuant to Business and  
26 Professions Code Section 10148, the cost of the audit (LA  
27 090189). The amount of said cost for the audits was \$5,316.

1           9. Respondent has received, read, and understands the  
2 "Notice Concerning Costs of Subsequent Audit". Respondent  
3 further understands that by agreeing to this Stipulation, the  
4 findings set forth below in the Determination of Issues become  
5 final, and the Commissioner may charge Respondent for the cost of  
6 any subsequent audit conducted pursuant to Business and  
7 Professions Code Section 10148 to determine if the violations to  
8 the audit have been corrected. The maximum cost of the  
9 subsequent audit will not exceed \$5,316.

10                           DETERMINATION OF ISSUES

11           By reason of the foregoing, it is stipulated and agreed  
12 that the following determination of issues shall be made:

13           The conduct, acts or omissions of ARTURO JESUS OCHOA,  
14 as described in Paragraph 4, above, is in violation of Sections  
15 10145, 10159.2, 10177(d) and 10177(h) of the Business and  
16 Professions Code ("Code") and Sections 2725, 2831, and 2832, of  
17 Title 10, Chapter 6 of the California Code of Regulations  
18 ("Regulations") and is a basis for discipline of Respondent's  
19 license and license rights as a violation of the Real Estate Law  
20 pursuant to Code Sections 10177(d), and 10177(h).

21                           ORDER

22           WHEREFORE, THE FOLLOWING ORDER is hereby made:

23                           I.

24           A. All licenses and licensed rights of Respondent  
25 ARTURO JESUS OCHOA under the Real Estate Law are suspended for a  
26 period of sixty (60) days from the effective date of this  
27 Decision; provided, however, that the initial thirty (30) days of

1 said suspension shall be stayed upon the following terms and  
2 conditions:

3 1. Respondent ARTURO JESUS OCHOA shall pay a monetary  
4 penalty pursuant to Section 10175.2 of the Business and  
5 Professions Code of \$3,000 (at the rate of \$100 per day for each  
6 day of the suspension) for a total monetary penalty of \$3,000.

7 2. Said payment shall be in the form of a cashier's  
8 check or certified check made payable to the Recovery Account of  
9 the Real Estate Fund. Said check must be received by the  
10 Department prior to the effective date of the Decision in this  
11 matter.

12 3. No further cause for disciplinary action against  
13 the real estate license of Respondent ARTURO JESUS OCHOA occurs  
14 within two (2) years from the effective date of the Decision in  
15 this matter.

16 4. If Respondent ARTURO JESUS OCHOA fails to pay the  
17 monetary penalty in accordance with the terms and conditions of  
18 the Decision, the Commissioner may, without a hearing, order the  
19 immediate execution of all or any part of the stayed suspension,  
20 in which event the Respondent shall not be entitled to any  
21 repayment nor credit, prorated or otherwise, for money paid to  
22 the Department under the terms of this Decision.

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

1                    B. The remaining thirty (30) days of the sixty (60)  
2 day suspension shall be stayed for two (2) years upon the  
3 following terms and conditions:

4                    1. Respondent ARTURO JESUS OCHOA shall obey all laws,  
5 rules and regulations governing the rights, duties and  
6 responsibilities of a real estate licensee in the State of  
7 California; and

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

16                    II.

17                    Respondent shall submit proof satisfactory to the  
18 Commissioner of having taken and successfully completed the  
19 continuing education course on trust fund accounting and handling  
20 specified in paragraph (3) of subdivision (a) of Section 10170.5  
21 of the Business and Professions Code. Proof of satisfaction of  
22 this requirement includes evidence that Respondent has  
23 successfully completed the trust fund account and handling  
24 continuing education course within 120 days prior to the  
25 effective date of this Decision. If Respondent fails to satisfy  
26 this condition, the Commissioner may, in his discretion, vacate  
27 and set aside the stay order and reimpose all or a portion of the

1 stayed suspension until Respondent presents such evidence.

2 III.

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

16 IV.

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

24 V.

25 Pursuant to Section 10148 of the Business and  
26 Professions Code, Respondent shall pay the Commissioner's  
27 reasonable cost for (a) the audits which led to this disciplinary

1 action and (b) a subsequent audit to determine if Respondent is  
2 now in compliance with the Real Estate Law. The cost of the  
3 audit which led to this disciplinary action is \$5,316. In  
4 calculating the amount of the Commissioner's reasonable cost, the  
5 Commissioner may use the estimated average hourly salary for all  
6 persons performing audits of real estate brokers, and shall  
7 include an allocation for travel time to and from the auditor's  
8 place of work. Said amount for the subsequent audits, shall not  
9 exceed \$5,316.

10 Respondent shall pay such cost within 60 days of  
11 receiving an invoice from the Commissioner detailing the  
12 activities performed during the audit and the amount of time  
13 spent performing those activities.

14 The Commissioner may suspend the license of Respondent  
15 pending a hearing held in accordance with Section 11500, et seq.,  
16 of the Government Code, if payment is not timely made as provided  
17 for herein, or as provided for in a subsequent agreement between  
18 Respondent and the Commissioner. The suspension shall remain in  
19 effect until payment is made in full or until Respondent enters  
20 into an agreement satisfactory to the Commissioner to provide for  
21 payment, or until a decision providing otherwise is adopted  
22 following a hearing held pursuant to this condition.

23  
24  
25 DATED: 1-23-13

Amelia V. Vetrone  
Amelia V. Vetrone, Counsel for  
the Department of Real Estate

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1 \* \* \*

2 EXECUTION OF THE STIPULATION

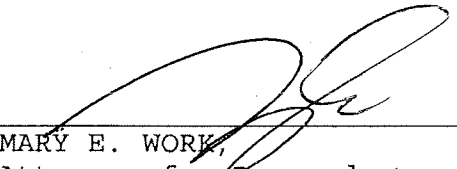
3 I have read the Stipulation and Agreement. Its terms  
4 are understood by me and are agreeable and acceptable to me. I  
5 understand that I am waiving rights given to me by the California  
6 Administrative Procedure Act (including but not limited to  
7 Sections 11506, 11508, 11509 and 11513 of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

13 Respondent shall (1) mail the original signed signature  
14 page of the stipulation herein to Amelia V. Vetrone: Attention:  
15 Legal Section, Department of Real Estate, 320 W. Fourth St.,  
16 Suite 350, Los Angeles, California 90013-1105. Additionally,  
17 Respondent shall also (2) facsimile a copy of the signed  
18 signature page, to the Department at the following fax number:  
19 (213) 576-6917, Attention: Amelia V. Vetrone.

20  
21 DATED: 01/03/2013

22   
ARTURO JESUS OCHOA,  
Respondent

23  
24 DATED: 1/16/13

25   
MARY E. WORK,  
Attorney for Respondent  
26 Approved as to form


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\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondent ARTURO JESUS OCHOA and  
shall become effective at 12 o'clock noon on  
March 15, 2013.

IT IS SO ORDERED 2/5/13.

Real Estate Commissioner



By AWET P. KIDANE  
Chief Deputy Commissioner