DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789

FILED

JAN 10 2012

DEPARTMENT OF REAL ESTATE

By L. Contreras

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of PEDRO HERNANDEZ, and IRMA MACHADO, Respondents.	NO. H-2493 FR STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER (as to PEDRO HERNANDEZ only)

It is hereby stipulated by and between Respondent PEDRO HERNANDEZ, (herein "Respondent"), by and through Robert F. Hahn, attorney of record herein for Respondent, and the Complainant, acting by and through Mary F. Clarke, Counsel for the Department of Real Estate (herein "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on June 10, 2010, in this matter:

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

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

3. A Notice of Defense was filed on July 12, 2010 by Respondent, 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, he will thereby waive his right to require the Real Estate Commissioner (herein "the Commissioner") to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that he 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. This Stipulation and Agreement in Settlement and Order is based on the factual allegations contained in the Accusation. In the interests of expedience and economy, Respondent chose not to contest these allegations, but to remain silent and understands that, as a result thereof, these factual allegations, without being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to herein. The Commissioner shall not be required to provide further evidence to prove said factual allegations.

5. It is understood by the parties that the Commissioner may adopt the Stipulation and Agreement in Settlement and Order as his/her decision in this matter thereby imposing the penalty and sanctions on Respondent's real estate license and license rights as set forth in the below "Order". In the event that the Commissioner in his/her discretion does not adopt the Stipulation and Agreement in Settlement and Order, 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 APA and shall not be bound by any admission or waiver made herein.

6. The Order or any subsequent Order of the Commissioner made pursuant to this Stipulation and Agreement in Settlement and Order shall not constitute an estoppel, merger, or bar to any further administrative or civil proceedings by the Department with respect to any matters which were not specifically alleged to be causes for accusation in this proceeding.

DETERMINATION OF ISSUES

The acts and omissions of Respondent as described in the Accusation are grounds for discipline of the license and license rights of Respondent under Section 10177(g) and (h) of the California Business and Professions Code (herein the "Code"), and Section 2725 of Chapter 6, Title 10, California Code of Regulations (herein "the Regulations") in conjunction with Section 10177(d) of the Code.

ORDER

The license and licensing rights of Respondent PEDRO HERNANDEZ under the Real Estate Law are publicly reproved pursuant to Section 495 of the Code.

Said public reproval is issued upon the following terms and conditions:

1. Respondent shall, within six (6) months from the issuance of the Decision, take and complete at an accredited institution the continuing education courses in ethics, agency and risk management as specified Section 10170.5 of the Code. If Respondent fails to take and complete said courses within six (6) months from the issuance of the Decision, the Commissioner may in his/her discretion indefinitely suspend all licenses and licensing rights of Respondent under the Real Estate Law until such courses have been taken and completed.
2. Respondent shall, within six (6) months from the issuance of the 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 the suspension of the license until Respondent passes the examination.

12-19-11
DATED

MARY F. CLARKE, Counsel
DEPARTMENT OF REAL ESTATE

* * *

I have read the Stipulation and Agreement in Settlement and Order and have discussed it with my attorney 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 APA (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 present evidence in defense and mitigation of the charges.

Dec 3, 2011
DATED

PEDRO HERNANDEZ, Respondent

* * *

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

12-15-11
DATED

ROBERT F. HAHN
Attorney for Respondent

* * *

The foregoing Stipulation and Agreement in Settlement and Order is hereby adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on January 30, 2012.

IT IS SO ORDERED 1/9/12.

BARBARA BIGBY
Acting Real Estate Commissioner

FILED

JAN 10 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of PEDRO HERNANDEZ, and IRMA MACHADO, Respondents.	NO. H-2493 FR

ORDER ACCEPTING VOLUNTARY SURRENDER

On June 10, 2010, an Accusation was filed in this matter against Respondents PEDRO HERNANDEZ, and IRMA MACHADO.

By Declaration signed December 1, 2011, Respondent IRMA MACHADO, only, petitioned the Real Estate Commissioner to voluntarily surrender her real estate license pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that the petition of Respondent IRMA MACHADO for the voluntary surrender of her real estate license is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in the Declaration of Respondent IRMA MACHADO, dated December 1, 2011 (attached hereto as

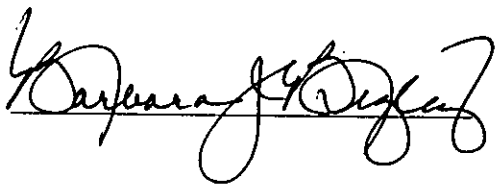
Exhibit "A"). Respondent's license certificate and pocket card shall be sent to the below listed address so that they reach the Department of Real Estate on or before the effective date of this Order:

DEPARTMENT OF REAL ESTATE
Attn: Licensing Flag Section
P. O. Box 187000
Sacramento, CA 95818-7000

This Order shall become effective at 12 o'clock noon on January 30, 2012.

DATED: 1/6/12.

BARBARA J. BIGBY
Acting Real Estate Commissioner



BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of IRMA MACHADO, Respondent.	)	NO. H-2493 FR

DECLARATION

My name is IRMA MACHADO, and I am currently licensed as a real estate salesperson and have license rights with respect to said license. I am representing myself in this matter.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Government Code), I wish to voluntarily surrender my real estate license issued by the Department of Real Estate ("Department"), pursuant to Business and Professions Code Section 10100.2.

I understand that by so voluntarily surrendering my license, I may be relicensed as a broker or as a salesperson only by petitioning for reinstatement pursuant to Section 11522 of

EXHIBIT A

the Government Code. I also understand that by so voluntarily surrendering my license, I agree to the following:

1. The filing of this Declaration shall be deemed as my petition for voluntary surrender.

2. It shall also be deemed to be an understanding and agreement by me that I waive all rights I have to require the Commissioner to prove the allegations that might have been 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 I also waive other rights afforded to me 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.

3. I further agree 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-2493 FR, may be considered by the Department to be true and correct for the purpose of deciding whether to grant relicensure or reinstatement pursuant to Government Code Section 11522.

4. I freely and voluntarily surrender my license and license rights under the Real Estate Law.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct and that this declaration was executed December 1st, 2011, at Ojai, California.

IRMA MACHADO

12/01/2011 THU 9:07 [JOB

EXHIBIT A

MARY F. CLARKE, Counsel (SBN 186744)
Department of Real Estate
P. O. Box 187007
Sacramento, CA 95818-7007

Telephone: (916) 227-0789
-or- (916) 227-0780 (Direct)

FILED

JUN 10 2010

DEPARTMENT OF REAL ESTATE

By R. Contreras

BEFORE THE

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of PEDRO HERNANDEZ and IRMA MACHADO, Respondents.	NO. H-2493 FR ACCUSATION

The Complainant, LUKE MARTIN, a Deputy Real Estate Commissioner of the State of California, for Accusation against PEDRO G. HERNANDEZ (herein "HERNANDEZ"), and IRMA MACHADO (herein "MACHADO") dba San Joaquin Real Estate & Financial Services, Inc. (herein collectively "Respondents"), is informed and alleges as follows:

1

The Complainant makes this Accusation in his official capacity.

2

At all times herein mentioned, HERNANDEZ was and now is licensed by the Department as a real estate broker. HERNANDEZ was at all times mentioned herein responsible for the supervision of the activities of the real estate licensees in his employ for which a real estate license is required.

3

At all times herein mentioned, MACHADO was and now is licensed by the Department as a real estate salesperson and was in the employ of HERNANDEZ between about December 8, 2009 and February 19, 2010.

4

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers within the State of California within the meaning of Section 10131(d) of the Business and Professions Code (herein "the Code"), including the operation and conduct of a mortgage loan brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondents solicited lenders or borrowers for or negotiated loans or collected payments or performed 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.

5

Between about November 21, 2008 and November 2, 2009, Respondent MACHADO induced the following homeowners to enter into advance fee agreements for loan modification services by promising to obtain affordable loan modifications, which included principal and interest reductions:

Date	Homeowner	Advance Fee	Property
11/21/08	Jose A. T.	$3,345	7343 Houston Ave., Hanford, CA
2/18/09	Marisa A.	$3,495	2227 E. Norwich Ave., Fresno, CA
3/31/09	Jose P.	$3,150	2671 Peanut Dr., Madera, CA
7/23/09	Adolfo V.	$3,500	2551 W. Soults Dr., Tulare, CA
11/2/09	Enrique R.	$7,000	5269 S. Chestnut, Fresno, CA and 4918 E. Burns Ave., Fresno, CA

6

Between about December 8, 2009 and February 19, 2010, Respondent MACHADO entered into advance fee agreements for loan modification services with the following homeowners:

Homeowner	Property
Alejandro D.	640 Barbara Court, Merced, CA
Jorge G.	3436 W. Iris St., Visalia, CA
Juan Carlos R.	1101 Hoag Ave., Sanger, CA
Eulalio E. S.	21393 S. Benedict Ave., Riverdale, CA
Raudel L.	1736 E. Brown Ave., Fresno, CA

7

At all times herein mentioned, Respondent MACHADO failed to submit to the Department any or all materials used in advanced fee agreements, including but not limited to the contract form, any letters or cards used to solicit prospective sellers, and radio and television advertising, at least 10 calendar days before it was used in obtaining the advance fee agreements described in Paragraphs 5 and 6, above, in violation of Section of 10085 (advance fee agreements) of the Code and Section 2970 of Title 10, Chapter 6 of the California Code of Regulations (herein "the Regulations").

8

At all times herein mentioned, Respondent MACHADO collected advance fees from the homeowners described in Paragraph 5, above, for performing services in connection with loans to be secured directly or collaterally by a lien on real property, before they became obligated to complete the loan, in violation of Section 10085.5 (collecting advance fees) of the Code.

9

At all times herein mentioned, Respondent MACHADO, failed to obtain loan modifications for the homeowners described in Paragraph 5, above, contrary to the representations and promises made, in violation of Sections 10176(a) (substantial misrepresentation), (b) (making a false promise), and (i) (fraud or dishonest dealing) and/or 10177(g) (negligence) and/or (j) (fraud or dishonest dealing) of the Code.

10

At all times mentioned herein, Respondent HERNANDEZ failed to exercise reasonable supervision over the acts of Respondent MACHADO in such a manner as to allow the

acts and omissions on the part of MACHADO, described in Paragraph 6, above, to occur, in violation of Sections 10177(g) and (h) (broker supervision) of the Code and Section 2725 (broker supervision) of the Regulations.

11

The facts alleged above are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following provisions of the Code and/or the Regulations:

(a) as to Paragraph 7, and Respondent MACHADO, under Section of 10085 of the Code and Section 2970 of Regulations, in conjunction with Section 10177(d) of the Code;

(b) as to Paragraph 8, and Respondent MACHADO, under Section of 10085.5 of the Code, in conjunction with Section 10177(d) of the Code;

(c) as to Paragraph 9, and Respondent MACHADO, under Sections 10176(a), (b), and (i) and/or 10177(g) and/or (j) of the Code; and,

(d) as to Paragraph 10, and Respondent HERNANDEZ, under Section 10177(g) and (h) of the Code and Section 2725 of the Regulations, in conjunction with Section 10177(d) of the Code.

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.

LUKE MARTIN
Deputy Real Estate Commissioner

Dated at Fresno, California,
this 27th day of May, 2010.