

Sacts

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

NOV 16 1992
DEPARTMENT OF REAL ESTATE
BY *[Signature]*

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

| | | |
|------------------------------------|---|-----------------------------|
| In the Matter of the Accusation of |) | |
| |) | No. H-1890 SD |
| FIRST SECURITY MORTGAGE HOME |) | |
| LOANS, INC., dba First |) | |
| Security Mortgage; |) | |
| SYLVIA CHIMALPOPOCA RIOS, |) | |
| individually, as designated |) | |
| officer of First Security |) | <u>STIPULATION AND</u> |
| Mortgage Home Loans, Inc., |) | <u>AGREEMENT IN</u> |
| and as designated officer |) | <u>SETTLEMENT AND ORDER</u> |
| of Rios Real Estate Services; |) | |
| RIOS REAL ESTATE SERVICES, |) | |
| dba Realty World-Expert; and |) | |
| ANTERO RIOS, aka Tony Rios, |) | |
| |) | |
| Respondents. |) | |

It is hereby stipulated by and between FIRST SECURITY MORTGAGE HOME LOANS, INC., dba First Security Mortgage; SYLVIA CHIMALPOPOCA RIOS, individually, as designated officer of First Security Mortgage Home Loans, Inc., and as designated officer of Rios Real Estate Services; RIOS REAL ESTATE SERVICES, dba Realty World-Expert; and ANTERO RIOS, aka Tony Rios, (sometimes referred to as respondents) and the Complainant, acting by and

1 through Elliott Mac Lennan, Counsel for the Department of Real
2 Estate, as follows for the purpose of settling and disposing of
3 the Accusation filed on May 13, 1991 in this matter:

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

11 2. Respondents have received, read and understand the
12 Statement to Respondent, the Discovery Provisions of the APA and
13 the Accusation filed by the Department of Real Estate in this
14 proceeding.

15 3. On May 28, 1991, respondents filed a Notice of
16 Defense pursuant to Section 11505 of the Government Code for the
17 purpose of requesting a hearing on the allegations in the
18 Accusation. Respondents hereby freely and voluntarily withdraw
19 said Notice of Defense. Respondents acknowledge that they
20 understand that by withdrawing said Notice of Defense they
21 thereby waive their right to require the Commissioner to prove
22 the allegations in the Accusation at a contested hearing held in
23 accordance with the provisions of the APA and that they will
24 waive other rights afforded to them in connection with the
25 hearing such as the right to present evidence in defense of the
26 allegations in the Accusation and the right to cross-examine
27 witnesses.

1 4. Respondents Rios Real Estate Services, dba Realty
2 World-Expert and Antero Rios, aka Tony Rios, hereby acknowledge
3 that their acceptance of the non-negotiable cashier's check
4 described in Paragraph XV of the Accusation (incorrectly
5 described as a non-negotiable check) from the buyer on behalf of
6 the seller and their failure to make certain that the seller
7 understood the ramifications of receiving such a check was below
8 the standard of care for a broker in said respondents' area.

9 5. This Stipulation is based on respondents' decision
10 not to contest the allegations set forth in the Accusation as a
11 result of the agreement negotiated between the parties. This
12 Stipulation and the finding, express or implied, based on
13 respondents' decision not to contest the Accusation, are made
14 expressly limited to this proceeding and any further proceeding
15 initiated by or brought before the Department of Real Estate
16 based upon the facts and circumstances alleged in the
17 Accusation, and made for the sole purpose of reaching an agreed
18 disposition of this proceeding. The decision of respondents not
19 to contest the factual statements alleged, and as contained in
20 the stipulated Order, are made solely for the purpose of
21 effectuating this Stipulation. It is the intent and
22 understanding of the parties that this Stipulation and Order
23 shall not be binding or admissible against respondents in any
24 actions against respondents by third parties.

25 6. It is understood by the parties that the Real
26 Estate Commissioner may adopt the Stipulation as his decision in
27 this matter thereby imposing the penalty and sanctions on

1 respondents' real estate licenses and license rights as set
2 forth in the "Order" hereinbelow. In the event that the
3 Commissioner in his discretion does not adopt the Stipulation,
4 it shall be void and of no effect, and respondents shall retain
5 the right to a hearing and proceeding on the Accusation under
6 the provisions of the APA and shall not be bound by any
7 admission or waiver made herein.

8 7. The Order or any subsequent Order of the Real
9 Estate Commissioner made pursuant to this Stipulation shall not
10 constitute an estoppel, merger or bar to any further
11 administrative or civil proceedings by the Department of Real
12 Estate with respect to any matters which were not specifically
13 alleged to be causes for accusation in this proceeding.

14 DETERMINATION OF ISSUES

15 By reason of the foregoing stipulations, admissions
16 and waivers and solely for the purpose of settlement of the
17 pending Accusation without a hearing, it is stipulated and
18 agreed that the following determination of issues shall be made:

19 I

20 The act or omission of respondent RIOS REAL ESTATE
21 SERVICES, INC. and respondent ANTERO RIOS, as described in
22 Paragraph 4, above, is a basis for the suspension or revocation
23 of their licenses and license rights pursuant to Section
24 10177(g) of the Code.

25 /

26 /

27 /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ORDER

WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE WRITTEN STIPULATION OF THE PARTIES:

I

The corporate real estate broker license and all licensing rights under the provisions of Part 1 of Division 4 of the Business and Professions Code of respondent RIOS REAL ESTATE SERVICES, INC., dba Realty World-Expert, are hereby revoked.

However, respondent RIOS REAL ESTATE SERVICES, INC., shall be entitled to apply for and shall be issued a restricted corporate real estate broker license if respondent makes application therefor and pays to the Department the appropriate fee for said license within ninety (90) days from the effective date of the Decision herein.

The restricted license issued to respondent RIOS REAL ESTATE SERVICES, INC., shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the Code:

A. The restricted license may be suspended after hearing by Order of the Real Estate Commissioner in the event of respondent's conviction (including conviction on a plea of nolo contendere) to a crime which bears a substantial relationship to respondent's fitness or capacity as a real estate licensee.

B. The restricted license may be suspended after hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that respondent has violated

1 provisions of the California Real Estate Law (other than the
2 violations specified in the Accusation), the Subdivided Lands
3 Law, Regulations of the Real Estate Commissioner or conditions
4 attaching to said restricted license.

5 C. Respondent RIOS REAL ESTATE SERVICES, INC., shall
6 obey all laws of the United States, the State of California and
7 its political subdivisions, and shall further obey and comply
8 with all rules and regulations of the Real Estate Commissioner.

9 D. Respondent RIOS REAL ESTATE SERVICES, INC., shall
10 report in writing to the Department of Real Estate as the
11 Commissioner shall direct by his decision herein or by separate
12 written order issued while the restricted license is in effect,
13 such information concerning respondent's activities for which a
14 real estate license is required as the Commissioner shall deem
15 to be appropriate to protect the public interest. Respondent
16 shall also allow the Department to conduct an examination of
17 respondent's books and records relating to its activities
18 requiring a real estate license upon request therefor by the
19 Department.

20 E. Respondent shall not be eligible to apply for the
21 issuance of an unrestricted real estate license nor the removal
22 of any of the conditions, limitations or restrictions of the
23 restricted license until at least one year has elapsed from the
24 effective date of the Decision.

25 II

26 The real estate broker license and license rights of
27 respondent ANTERO RIOS aka Tony Rios under the Real Estate Law

1 (Part 1 of Division 4 of the Business and Professions Code) are
2 hereby revoked.

3 However, respondent ANTERO RIOS shall be entitled to
4 apply for and be issued a restricted real estate broker license
5 if he makes application therefor and pays to the Department of
6 Real Estate the appropriate fee for said license within ninety
7 (90) days of the effective date of the Decision herein.

8 The restricted real estate broker license issued to
9 respondent shall be subject to all of the provisions of Section
10 10156.7 of the Business and Professions Code and the following
11 limitations, conditions and restrictions imposed under authority
12 of Section 10156.6 of the Code:

13 A. The restricted license may be suspended prior to
14 hearing by Order of the Real Estate Commissioner in the event of
15 respondent's conviction (including conviction of a plea of nolo
16 contendere) to a crime which bears a significant relationship to
17 respondent's fitness or capacity as a real estate licensee.

18 B. The restricted license may be suspended prior to
19 hearing by Order of the Real Estate Commissioner on evidence
20 satisfactory to the Commissioner that respondent has, after the
21 effective date of the Order herein, violated provisions of the
22 California Real Estate Law, the Subdivided Lands Law,
23 Regulations of the Real Estate Commissioner or conditions
24 attaching to said restricted license.

25 C. Respondent shall obey all laws of the United
26 States, the State of California and its political subdivisions,
27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

and shall further obey and comply with all rules and regulations
of the Real Estate Commissioner.

D. Respondent shall not be eligible for the issuance
of an unrestricted real estate license nor the removal of any of
the conditions, limitations or restrictions of the restricted
license until at least one year has elapsed from the effective
date of the Decision.

E. Respondent shall by December 31, 1992, 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 the restricted license
until respondent passes the examination.

F. Respondent shall by December 31, 1992, present
evidence satisfactory to the Real Estate Commissioner that he
has, since the most recent issuance of an original or renewal
real estate license, taken and successfully completed the
continuing education requirements of Article 2.5 of Chapter 3 of
the Real Estate Law for renewal of a real estate license. If
respondent fails to satisfy this condition the Commissioner
shall afford respondent the opportunity for hearing pursuant to
the Administrative Procedure Act to present such evidence.

III

Any restricted real estate broker license issued to
respondent ANTERO RIOS and all license rights pertaining to this
license are suspended for a period of thirty (30) days from the
effective date of the issuance of such a license; provided,

1 however, that all thirty (30) days of said suspension shall be
2 stayed on the condition that:

3 (A) Respondent ANTERO RIOS, pursuant to his petition
4 to the Commissioner, pays a monetary penalty pursuant to Section
5 10175.2 of the Business and Professions Code in the amount of
6 one thousand hundred dollars (\$1,000) prior to the effective
7 date of any decision;

8 (B) The Commissioner, in exercising his discretion
9 under Section 10175.2 agrees by signing this Order, that it
10 would not be against the public interest to permit respondent to
11 pay a monetary penalty; and

12 (C) The payment of the monetary penalty shall be in
13 the form of a cashier's check or certified check made payable to
14 the Recovery Account of the Real Estate Fund.

15 If no further cause for disciplinary action occurs
16 against respondent ANTERO RIOS' real estate broker license
17 within one (1) year from the effective date of this Decision,
18 the stay granted upon the payment of the monetary penalty shall
19 become permanent. If it is determined pursuant to the
20 Administrative Procedure Act that further cause for disciplinary
21 action against the real estate license or license rights of
22 respondent has occurred within one (1) year from the effective
23 date of this Decision, the stay of suspension hereby granted, or
24 such portion thereof, as the Real Estate Commissioner shall deem
25 to be appropriate, shall be vacated.

26 /

27 /

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

IV

As a further condition to entering into this
Stipulation by the Real Estate Commissioner, ANTERO RIOS shall
make payment to Mary A. Scharz of \$3,119.50 prior to the time
that any restricted real estate broker license is issued.

V

All charges made by the original and amended
Accusation against FIRST SECURITY MORTGAGE HOME LOANS, INC., dba
First Security Mortgage; SYLVIA CHIMALPOPOCA RIOS,
individually, as designated officer of First Security
Mortgage Home Loans, Inc., and as designated officer of Rios
Real Estate Services dba Realty World-Expert are hereby
dismissed;

DATED: August 28, 1992

elliott mac lennan
ELLIOTT MAC LENNAN
Counsel for Complainant

* * * *

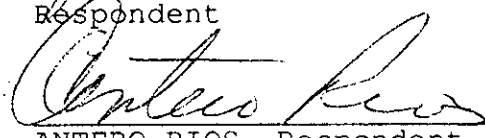
I have read the Stipulation In Settlement and Order,
have discussed it with my counsel, and its terms are understood
by me and are agreeable and acceptable to me. I understand that
I am waiving rights given to me by the California Administrative
Procedure Act (including but not limited to Sections 11506,
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

1 cross-examine witnesses against me and to present evidence in
2 defense and mitigation of the charges.

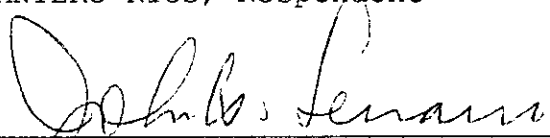
3
4 DATED: Sept. 8, 1992


SYLVIA CHIMALPOOCA RIOS,
Respondent

5
6 DATED: Sept 8, 1992


ANTERO RIOS, Respondent

7
8
9 DATED: 9-11-92

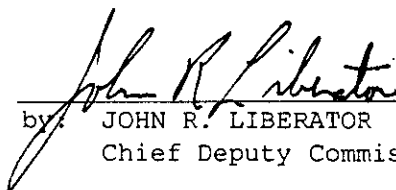

JOHN H. SERRANO, Attorney for
RIOS REAL ESTATE SERVICES, INC.,
SYLVIA CHIMALPOOCA RIOS,
ANTERO RIOS, and FIRST SECURITY
MORTGAGE HOME LOANS, INC.

10
11
12 * * * *

13 The foregoing Stipulation and Agreement for Settlement
14 and Order is hereby adopted by the Commissioner and shall become
15 effective at 12 o' clock noon on DECEMBER 7, _____, 1992.

16 IT IS SO ORDERED October 22, 1992.

17
18 CLARK WALLACE
19 Real Estate Commissioner

20
21 
22 by: JOHN R. LIBERATOR
23 Chief Deputy Commissioner
24
25
26
27

SACTO
FVAG

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 897-3194

FILED

APR 28 1992

DEPARTMENT OF REAL ESTATE

BY *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

| | | |
|------------------------------------|---|-------------------|
| In the Matter of the Accusation of |) | |
| |) | No. H-1890 SD |
| FIRST SECURITY MORTGAGE HOME |) | |
| LOANS, INC., dba First |) | <u>AMENDED</u> |
| Security Mortgage; |) | <u>ACCUSATION</u> |
| SYLVIA CHIMALPOPOCA RIOS, |) | |
| individually, as designated |) | |
| officer of First Security |) | |
| Mortgage Home Loans, Inc., |) | |
| and as designated officer |) | |
| of Rios Real Estate Services; |) | |
| RIOS REAL ESTATE SERVICES, |) | |
| dba Realty World-Expert; and |) | |
| ANTERO RIOS, aka Tony Rios, |) | |
| |) | |
| Respondents. |) | |

The Accusation filed May 13, 1991 is amended as follows:

The Complainant, J. Chris Graves, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against FIRST SECURITY MORTGAGE HOME LOANS, INC., dba First Security Mortgage; SYLVIA CHIMALPOPOCA RIOS, individually, as

1
2 designated officer of First Security Mortgage Home Loans, Inc.,
3 and as designated officer of Rios Real Estate Services; RIOS REAL
4 ESTATE SERVICES, dba Realty World-Expert; and ANTERO RIOS, aka
5 Tony Rios, is informed and alleges in his official capacity as
6 follows:

7 I

8 FIRST SECURITY MORTGAGE HOME LOANS, INC., dba First
9 Security Mortgage (FSM); SYLVIA CHIMALPOCOCA RIOS (S. RIOS); RIOS
10 REAL ESTATE SERVICES, dba Realty World-Expert (RWE); and ANTERO
11 RIOS (A. RIOS) are presently licensed and/or have license rights
12 under the Real Estate Law (Part 1 of Division 4 of the California
13 Business and Professions Code).

14 II

15 All references to the "Code" are to the California
16 Business and Professions Code and all references to "Regulations"
17 are to Title 10, Chapter 6, California Code of Regulations.

18 III

19 At all times mentioned, FSM and RWE were licensed by the
20 Department of Real Estate of the State of California (Department)
21 as corporate real estate brokers by and through S. RIOS as
22 designated officer.

23 IV

24 At all times mentioned, S. RIOS was licensed by the
25 Department individually and as designated officer of FSM and RWE
26 to qualify FSM and RWE and to act for FSM and RWE as a real estate
27 broker and, as provided by Section 10159.2 of the Code, was
responsible for the supervision and control of the activities

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

conducted on behalf of FSM and RWE by its officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespeople licensed to the corporation in the performance of acts for which a real estate license is required by Section 10159.2 of the Code.

V

At all times mentioned, in the cities of San Diego and Del Mar, San Diego County, A. RIOS was licensed as a real estate broker by the Department. A. RIOS worked for FSM and RWE as a co-broker. A. RIOS was a co-owner of FSM and RWE and their corporate secretary.

VI

Whenever reference is made in an allegation in the accusation to an act or omission of A. RIOS and/or FSM and RWE, such allegation shall be deemed to mean that the officers, directors, managers, employees, agents and real estate licensees employed by or associated with FSM and RWE, including S. RIOS, committed such act or omission while engaged in the furtherance of the business or operation of FSM and RWE and while acting within the course and scope of their corporate authority, agency and employment.

VII

At all times mentioned, FSM, RWE, S. RIOS and A. RIOS were acting as the agent or employee of the other and within the course and scope of such agency or employment.

VIII

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

At all times mentioned, in the City of San Diego and Del Mar, San Diego County, RWE engaged in the business of a corporate real estate broker and S. RIOS, a real estate broker, within the meaning of Section 10131(a) of the Code, wherein RWE solicited for and negotiated the sale or purchase of real property on behalf of others for or in expectation of compensation.

IX

At all times mentioned, in the City of San Diego, San Diego County, FSM engaged in the business of a corporate real estate broker and S. RIOS, a real estate broker, within the meaning of Section 10131(d) of the Code, including the operation of a mortgage loan brokerage business with the public wherein lenders and borrowers were solicited for loans secured directly or collaterally by liens on real property, wherein such loans were arranged, negotiated, processed, and consummated on behalf of others for compensation or in expectation of compensation and for fees often collected in advance.

X

On or about April 26, 1988, Danita Kathleen Ronk (Ronk) invested \$13,500 in a note and third trust deed with the underlying security being property commonly known as 3327 "L" Street, San Diego, California (subject property) owned by Alphonso V. Flores (Flores). The note and deed of trust were originally executed in favor of Monty Okken and Natalie Okken, co-trustees of the Okken Family Trust. The note and deed of trust were later assigned to Ronk's mother, Mary A. Schwarz, on April 28, 1988, and thereafter recorded on May 13, 1988. Schwarz

1
2 had previously given Ronk a general power of attorney to act on
3 her behalf on May 22, 1987. A. RIOS solicited and negotiated this
4 loan transaction through FSM.

5 XI

6 A. RIOS informed Ronk that the subject property was in
7 "very good" condition when its actual condition was in a state of
8 extreme disrepair, was rented for \$600 per month when the actual
9 gross rental was \$400, and was valued at \$60,000 when the actual
10 value was closer to \$42,000.

11 XII

12 On or about August 29, 1988, Flores defaulted on the
13 \$13,500 note evidenced by the trust deed on the subject property.
14 On or about August 31, 1988, the trustee, Southern California
15 Mortgage Service Company, filed a Notice of Default and Election
16 to Sell under deed of trust at the San Diego County Recorder's
17 Office. Schwarz gained title to the subject property, via a
18 trustee's deed on December 30, 1988.

19 XIII

20 On or about January 4, 1989, Ronk, by power of attorney
21 from Schwarz, verbally agreed to list the subject property with
22 FSM through A. RIOS. A. RIOS and Ronk did not actually execute an
23 Exclusive Authorization and Right to Sell Agreement until
24 February 21, 1989. The listing agreement expired on June 4, 1989.

25 XIV

26 On or about June 4, 1989, Ronk listed the subject
27 property with RWE (which had not existed at the time of the prior
listing on February 21, 1989) with A. RIOS acting as listing

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

agent. The listing agreement had an expiration date on June 4, 1990.

XV

On or about August 25, 1989, Maria Saenz (Saenz) made an offer to purchase the subject property. The offer recites that A. RIOS took a cashiers check for \$3,119.50 as a deposit. A. RIOS informed Ronk that the check was a cashiers check and he denoted the box "cashiers check" on the Real Estate Contract and Receipt of Deposit. The deposit check was to be held "uncashed" until acceptance of the offer. Ronk accepted Saenz' offer on September 14, 1989. A. RIOS, a co-broker for RWE, as described in Paragraph V, acted as agent for Saenz and Ronk. In truth and in fact, the check was actually an unendorsed, non-negotiable check made payable to Saenz, and A. RIOS failed to inform Ronk of this fact.

XVI

On or about September 18, 1989, Continental Escrow Officer, Anne Shepard, prepared escrow instructions for the Saenz-Ronk transaction based upon instructions from A. RIOS.

XVII

The Escrow Officer, Anne Shepard, never received signed escrow instructions from Saenz. This was never a valid escrow. A. RIOS did not deposit the \$3,119.50 deposit check into Continental Escrow, nor did A. RIOS deliver the check to Ronk, nor deposit the check into a trust fund.

/
/

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

XVIII

On or about October 5, 1989, Saenz told A. RIOS that she wanted to cancel the sales transaction because she was not able to sell her mobile home as she had planned. Saenz also told A. RIOS she was not happy with the subject property and requested that A. RIOS return her deposit check. A. RIOS then notified Ronk that he had to return Saenz' deposit check as Saenz had instructed him to do. Ronk told A. RIOS she wanted to keep the deposit that had been used as a down payment. Contrary to Ronk's instructions, A. RIOS returned the deposit check to Saenz.

XIX

The act or omission of A. RIOS, FSM and RWE in failing to deliver Saenz' \$3,119.50 check to the broker's principal, Ronk, as described in Paragraph XV, is in violation of Regulations 2832(c) and (d) and Section 10145 of the Code, and is a basis for the suspension or revocation of their licenses and license rights pursuant to Sections 10177(d) and 10177(g) of the Code.

XX

A. RIOS' misrepresenting the form of the check to Ronk and return of Saenz' \$3,119.50 check is in violation of Regulation 2785(a)(10) and 2785 (a)(9) and constitutes fraud and/or dishonest dealing and is a further basis for the suspension or revocation of the licenses and license rights of A. RIOS, FSM and RWE pursuant to Section 10176(i) of the Code.

XXI

The act or omission of S. RIOS in failing to adequately supervise A. RIOS with respect to the handling of Saenz' \$3,119.50

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

check is in violation of Section 10177(h) of the Code and is a basis for the suspension or revocation of her licenses and license rights.

XXII

By misrepresenting the status of subject property, A. RIOS, FSM and RWE induced Ronk to believe that she was in fact investing in the property as represented by A. RIOS and in reliance thereon entered into the Flores loan transaction with A. RIOS to her pecuniary detriment. The acts and omissions of A. RIOS, as described in Paragraphs X and XI, constitute substantial misrepresentations and are bases for the suspension or revocation of his license and license rights under Sections 10176(a) and 10176(i) of the Code.

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

/

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of respondents FIRST SECURITY MORTGAGE HOME LOANS, INC., dba First Security Mortgage; SYLVIA CHIMALPOPOCA RIOS, individually, as designated officer of First Security Mortgage Home Loans, Inc., and as designated officer of Rios Real Estate Services; RIOS REAL ESTATE SERVICES, dba Realty World-Expert; and ANTERO RIOS, dba Tony Rios, 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 San Diego, California
this 13th day of May, 1991.

J. CHRIS GRAVES
Deputy Real Estate Commissioner

cc: First Security Mortgage Home Loans, Inc.
Sylvia Chimalpopoca Rios
Rios Real Estate Services
Antero Rios
Sacto.
RLG

Sacto.
JLB

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FEB 11 1992

DEPARTMENT OF REAL ESTATE
BY Laura B. Chase

In the Matter of the Accusation of

FIRST SECURITY MORTGAGE HOME
LOANS, INC., et al.,

}

Case No. H-1890 SD

OAH No. L-54640

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

OFFICE OF ADMINISTRATIVE HEARINGS

1350 FRONT STREET, ROOM 6018, SAN DIEGO, CALIFORNIA 92101

on MAY 11, 12 and 13, 1992, at the hour of 9:00 a.m.,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: February 11, 1992

By Elliott MacLennan
ELLIOTT MAC LENNAN Counsel

cc: First Security Mortgage Home Loans
Sylvia Chimalpopoca Rios
Rios Real Estate Services
Antero Rios
John H. Serrano, Esq.
Sacto.
OAH, RLG

Sacto

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

OCT 23 1991

Anna B. Orme

In the Matter of the Accusation of

FIRST SECURITY MORTGAGE HOME
LOANS, INC., et al.,

}

Case No. H-1890 SD

OAH No. L-54640

Respondent(s)

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____

OFFICE OF ADMINISTRATIVE HEARINGS, 1350 FRONT ST., RM. 6018, SAN DIEGO, CA
12th, 13th 92101

on the & 14th day of NOVEMBER, 19 91, at the hour of 9:00 a.m., or as soon thereafter
as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, 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. The interpreter must be approved by the hearing officer conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: October 23, 1991

By *Elliott Mac Lennan*
ELLIOTT MAC LENNAN Counsel

cc: First Security Mortgage Home Loans, Inc.
Sylvia Chimalpopoca Rios
Rios Real Estate Services
Antero Rios
Michael M. Sandez, Esq.

RE 501 (Rev. 7/87)
Sacto, OAH, RLG

Dept. of Real Estate
OCT 24 1991
Accounting #2

0

SACTO.
FILES

ELLIOTT MAC LENNAN, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California 90012

(213) 620-4790

MAY 13 1991

DEPT. OF REAL ESTATE
BY *[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)
)
 FIRST SECURITY MORTGAGE HOME)
 LOANS, INC., dba First)
 Security Mortgage;)
 SYLVIA CHIMALPOPOCA RIOS,)
 individually, as designated)
 officer of First Security)
 Mortgage Home Loans, Inc.,)
 and as designated officer)
 of Rios Real Estate Services;)
 RIOS REAL ESTATE SERVICES,)
 dba Realty World-Expert; and)
 ANTERO RIOS, aka Tony Rios,)
 Respondents.)

No. H-1890 SD

A C C U S A T I O N

The Complainant, J. Chris Graves, a Deputy Real Estate
 Commissioner of the State of California, for cause of accusation
 against FIRST SECURITY MORTGAGE HOME LOANS, INC., dba First
 Security Mortgage; SYLVIA CHIMALPOPOCA RIOS, individually, as
 designated officer of First Security Mortgage Home Loans, Inc.,
 and as designated officer of Rios Real Estate Services; RIOS REAL

/
/

1 ESTATE SERVICES, dba Realty World-Expert; and ANTERO RIOS, aka
2 Tony Rios, is informed and alleges in his official capacity as
3 follows:
4

5 I

6 FIRST SECURITY MORTGAGE HOME LOANS, INC., dba First
7 Security Mortgage (FSM); SYLVIA CHIMALPOPOCA RIOS (S. RIOS); RIOS
8 REAL ESTATE SERVICES, dba Realty World-Expert (RWE); and ANTERO
9 RIOS (A. RIOS) are presently licensed and/or have license rights
10 under the Real Estate Law (Part 1 of Division 4 of the California
11 Business and Professions Code).

12 II

13 All references to the "Code" are to the California
14 Business and Professions Code and all references to "Regulations"
15 are to Title 10, Chapter 6, California Code of Regulations.

16 III

17 At all times mentioned, FSM and RWE were licensed by the
18 Department of Real Estate of the State of California (Department)
19 as corporate real estate brokers by and through S. RIOS as
20 designated officer.

21 IV

22 At all times mentioned, S. RIOS was licensed by the
23 Department individually and as designated officer of FSM and RWE
24 to qualify FSM and RWE and to act for FSM and RWE as a real estate
25 broker and, as provided by Section 10159.2 of the Code, was
26 responsible for the supervision and control of the activities
27 conducted on behalf of FSM and RWE by its officers, managers and
employees as necessary to secure full compliance with the

1 provisions of the Real Estate Law including the supervision of the
2 salespeople licensed to the corporation in the performance of acts
3 for which a real estate license is required by Section 10159.2 of
4 the Code.

5
6 V

7 At all times mentioned, in the cities of San Diego and
8 Del Mar, San Diego County, A. RIOS was licensed as a real estate
9 broker by the Department. A. RIOS worked for FSM and RWE as a co-
10 broker. A. RIOS was a co-owner of FSM and RWE and their corporate
11 secretary.

12 VI

13 Whenever reference is made in an allegation in the
14 accusation to an act or omission of A. RIOS and/or FSM and RWE,
15 such allegation shall be deemed to mean that the officers,
16 directors, managers, employees, agents and real estate licensees
17 employed by or associated with FSM and RWE, including S. RIOS,
18 committed such act or omission while engaged in the furtherance of
19 the business or operation of FSM and RWE and while acting within
20 the course and scope of their corporate authority, agency and
21 employment.

22 VII

23 At all times mentioned, FSM, RWE, S. RIOS and A. RIOS
24 were acting as the agent or employee of the other and within the
25 course and scope of such agency or employment.

26 VIII

27 At all times mentioned, in the City of San Diego and Del
Mar, San Diego County, RWE engaged in the business of a corporate

1 real estate broker and S. RIOS, a real estate broker, within the
2 meaning of Section 10131(a) of the Code, wherein RWE solicited
3 for and negotiated the sale or purchase of real property on behalf
4 of others for or in expectation of compensation.
5

6 IX

7 At all times mentioned, in the City of San Diego, San
8 Diego County, FSM engaged in the business of a corporate real
9 estate broker and S. RIOS, a real estate broker, within the
10 meaning of Section 10131(d) of the Code, including the operation
11 of a mortgage loan brokerage business with the public wherein
12 lenders and borrowers were solicited for loans secured directly or
13 collaterally by liens on real property, wherein such loans were
14 arranged, negotiated, processed, and consummated on behalf of
15 others for compensation or in expectation of compensation and for
16 fees often collected in advance.

17 X

18 On or about April 26, 1988, Danita Kathleen Ronk (Ronk)
19 invested \$13,500 in a note and third trust deed with the
20 underlying security being property commonly known as 3327 "L"
21 Street, San Diego, California (subject property) owned by
22 Alphonso V. Flores (Flores). The note and deed of trust were
23 originally executed in favor of Monty Okken and Natalie Okken,
24 co-trustees of the Okken Family Trust. The note and deed of trust
25 were later assigned to Ronk's mother, Mary A. Schwarz, on
26 April 28, 1988, and thereafter recorded on May 13, 1988. Schwarz
27 had previously given Ronk a general power of attorney to act on
/

1 her behalf on May 22, 1987. A. RIOS solicited and negotiated this
2 loan transaction through FSM.
3

4 XI

5 A. RIOS informed Ronk that the subject property was in
6 "very good" condition when its actual condition was in a state of
7 extreme disrepair, was rented for \$600 per month when the actual
8 gross rental was \$400, and was valued at \$60,000 when the actual
9 value was closer to \$42,000.

10 XII

11 On or about August 29, 1988, Flores defaulted on the
12 \$13,500 note evidenced by the trust deed on the subject property.
13 On or about August 31, 1988, the trustee, Southern California
14 Mortgage Service Company, filed a Notice of Default and Election
15 to Sell under deed of trust at the San Diego County Recorder's
16 Office. Schwarz gained title to the subject property, via a
17 trustee's deed on December 30, 1988.

18 XIII

19 On or about January 4, 1989, Ronk, by power of attorney
20 from Schwarz, verbally agreed to list the subject property with
21 FSM through A. RIOS. A. RIOS and Ronk did not actually execute an
22 Exclusive Authorization and Right to Sell Agreement until
23 February 21, 1989. The listing agreement expired on June 4, 1989.

24 XIV

25 On or about June 4, 1989, Ronk listed the subject
26 property with RWE (which had not existed at the time of the prior
27 listing on February 21, 1989) with A. RIOS acting as listing

1 agent. The listing agreement had an expiration date on June 4,
2 1990.

3
4 XV

5 On or about August 25, 1989, Maria Saenz (Saenz) made an
6 offer to purchase the subject property. The offer recites that
7 A. RIOS took a cashiers check for \$3,119.50 as a deposit. A. RIOS
8 informed Ronk that the check was a cashiers check and he denoted
9 the box "cashiers check" on the Real Estate Contract and Receipt
10 of Deposit. The deposit check was to be held "uncashed" until
11 acceptance of the offer. Ronk accepted Saenz' offer on
12 September 14, 1989. A. RIOS, a co-broker for RWE, as described in
13 Paragraph V, acted as agent for Saenz and Ronk. In truth and in
14 fact, the check was actually an unendorsed, non-negotiable check
15 made payable to Saenz, and A. RIOS failed to inform Ronk of this
16 fact.

17 XVI

18 On or about September 18, 1989, Continental Escrow
19 Officer, Anne Shepard, prepared escrow instructions for the Saenz-
20 Ronk transaction based upon instructions from A. RIOS.

21 XVII

22 The Escrow Officer, Anne Shepard, never received signed
23 escrow instructions from Saenz. This was never a valid escrow.
24 A. RIOS did not deposit the \$3,119.50 deposit check into
25 Continental Escrow, nor did A. RIOS deliver the check to Ronk, nor
26 deposit the check into a trust fund.

27 /
/

1
2 XVIII

3 On or about October 5, 1989, Saenz told A. RIOS that she
4 wanted to cancel the sales transaction because she was not able to
5 sell her mobile home as she had planned. Saenz also told A. RIOS
6 she was not happy with the subject property and requested that
7 A. RIOS return her deposit check. A. RIOS then notified Ronk that
8 he had to return Saenz' deposit check as Saenz had instructed him
9 to do. Ronk told A. RIOS she wanted to keep the deposit that had
10 been used as a down payment. Contrary to Ronk's instructions,
11 A. RIOS returned the deposit check to Saenz.

12 XIX

13 The act or omission of A. RIOS, FSM and RWE in failing
14 to deliver Saenz' \$3,119.50 check to the broker's principal, Ronk,
15 as described in Paragraph XV, is in violation of Regulations
16 2832(c) and (d) and Section 10145 of the Code, and is a basis for
17 the suspension or revocation of their licenses and license rights
18 pursuant to Sections 10177(d) and 10177(g) of the Code.

19 XX

20 A. RIOS' misrepresenting the form of the check to Ronk
21 and return of Saenz' \$3,119.50 check is in violation of Regulation
22 2785(a)(10) and constitute fraud and/or dishonest dealing and is a
23 further basis for the suspension or revocation of the licenses and
24 license rights of A. RIOS, FSM and RWE pursuant to Section
25 10176(i) of the Code.

26 XXI

27 The act or omission of S. RIOS in failing to adequately
supervise A. RIOS with respect to the handling of Saenz' \$3,119.50

1 check is in violation of Section 10177(h) of the Code and is a
2 basis for the suspension or revocation of her licenses and license
3 rights pursuant to Sections 10177(d) and 10177(g) of the Code.
4

5 XXII

6 By misrepresenting the status of subject property,
7 A. RIOS, FSM and RWE induced Ronk to believe that she was in fact
8 investing in the property as represented by A. RIOS and in
9 reliance thereon entered into the Flores loan transaction with
10 A. RIOS to her pecuniary detriment. The acts and omissions of
11 A. RIOS, as described in Paragraphs X and XI, constitute
12 substantial misrepresentations and are bases for the suspension or
13 revocation of his license and license rights under Sections
14 10176(a) and 10176(i) of the Code.
15 /
16 /
17 /
18 /
19 /
20 /
21 /
22 /
23 /
24 /
25 /
26 /
27 /

1 WHEREFORE, Complainant prays that a hearing be conducted
2 on the allegations made by the accusation and, that upon proof
3 thereof, a decision be rendered imposing disciplinary action
4 against all licenses and license rights of respondents FIRST
5 SECURITY MORTGAGE HOME LOANS, INC., dba First Security Mortgage;
6 SYLVIA CHIMALPOPOCA RIOS, individually, as designated officer of
7 First Security Mortgage Home Loans, Inc., and as designated
8 officer of Rios Real Estate Services; RIOS REAL ESTATE SERVICES,
9 dba Realty World-Expert; and ANTERO RIOS, dba Tony Rios, under the
10 Real Estate Law (Part 1 of Division 4 of the Business and
11 Professions Code) and for such other and further relief as may be
12 proper under other applicable provisions of law.

13 Dated at San Diego, California
14 this 13th day of May, 1991.

16 J. CHRIS GRAVES
17 Deputy Real Estate Commissioner

18
19
20
21
22
23
24 cc: First Security Mortgage Home Loans, Inc.
25 Sylvia Chimalpopoca Rios
26 Rios Real Estate Services
27 Antero Rios
Sacto.
RLG