

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
AUG 07 2011

DEPARTMENT OF REAL ESTATE

By *[Signature]*

In the Matter of the Accusation of

NORMA AGUAYO

Respondents.

)
) CASE NO. H-2343 FR
)
) OAH NO. 2010100398
)
)

DECISION

The Proposed Decision dated June 23, 2011, of the Administrative Law Judge of the Office of Administrative Hearings is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter.

The Decision suspends or revokes the real estate license and/or license rights.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of respondent.

This Decision shall become effective at 12 o'clock noon on AUG 19 2011

IT IS SO ORDERED

7/29/11

BARBARA J. BIGBY
Acting Real Estate Commissioner

[Signature]

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

NORMA AGUAYO,

Respondent.

Case No. H-2343 FR

OAH Case No. 2010100398

PROPOSED DECISION

Administrative Law Judge Marilyn A. Woollard, Office of Administrative Hearings (OAH), State of California, heard this matter in Fresno, California, on May 11, 2011.

Michael B. Rich, Real Estate Counsel, Department of Real Estate (department), represented complainant John W. Sweeney, a Deputy Real Estate Commissioner of the State of California (complainant). Deputy Real Estate Commissioner Ernie Ruiz was also present.

There was no appearance by or on behalf of respondent Norma Aguayo.

Oral and documentary evidence was received. At the conclusion of the hearing, the department offered oral closing argument. The record was then closed and the matter was submitted for decision on May 11, 2011.

FACTUAL FINDINGS

1. On February 10, 2007, the department issued a restricted conditional salesperson license to respondent pursuant to Business and Professions Code section 10153.4, following a Decision in Case No. H-2003 FR, effective January 11, 2007. (See Factual Finding 25.)¹ Effective August 11, 2008, respondent's license was conditionally suspended indefinitely pursuant to section 10153.4, subdivision (c), for

¹ Unless indicated otherwise, all references to statutes are to the California Business and Professions Code.

failing to complete the education requirements specified in section 10153.5. Effective January 26, 2009, respondent's restricted salesperson license was reinstated following completion of education requirements. By order dated February 11, 2009 in Case No. H-2003 FR, the department indefinitely suspended respondent's restricted salesperson license, pending resolution of the Accusation described below.

The department has never issued respondent a license as a real estate broker.

2. *Accusation:* On January 26, 2009, complainant, in his official capacity, filed an Accusation seeking to discipline respondent's real estate salesperson license and licensing rights. The Accusation was originally filed against the following additional respondents: individual real estate brokers Brian Keith Cortez and Lawrence John Medina, and corporate real estate brokers Camino Real Properties, Inc. (Camino), and Santa Fe Mortgage, Inc. (Santa Fe). Mr. Medina was the designated broker/officer for both Camino and Santa Fe. These respondents are no longer parties to this matter.²

The Accusation focused on the real estate activities of respondent, alone and in conjunction with these brokers, for the period extending from August 2006 through March 2008 in relation to three separate properties in Mendota and Fresno, California. Complainant alleged that respondent's license should be revoked as authorized by section 10177 for her willful disregard of the Real Estate Law, her violation of the terms and limitations of her restricted salesperson license, and for her conduct in the context of these transactions that demonstrated negligence or incompetence, and constituted fraud or dishonest dealing. Respondent's conduct of making substantial misrepresentations and false promises was alleged as a basis for the commissioner to revoke her license under section 10176.

3. On February 4, 2009, respondent filed her Notice of Defense in pro per. On March 2, 2009, respondent's attorney filed another Notice of Defense on her behalf. The matter was set for an evidentiary hearing before an Administrative Law Judge of the Office of Administrative Hearings, an independent adjudicative agency of the State of California, pursuant to Government Code section 11500, et seq.

² At the hearing, department counsel represented that Mr. Cortez had defaulted; that Mr. Medina had entered into a settlement agreement with the department for a 90-day license suspension with a two year stay of the suspension order; and that both Camino and Santa Fe had voluntarily surrendered their licenses. Counsel further represented that the department sought no findings against these entities in this decision.

4. *Respondent's Default:* On June 25, 2010, respondent's attorney filed a Notice of Withdrawal. On October 26, 2010, respondent was properly and timely served with the notice of hearing on the Accusation at her address of record with the department. Pursuant to Government Code section 11520, subdivision (a), this matter proceeded as a default against respondent on the charges set forth in the Accusation.

Mendota Property

5. *Respondent's Unlicensed Activity:* In 2006, before she received a conditional restricted real estate salesperson license, respondent engaged in unlicensed activity in matters governed by the Real Estate Law, section 10000 et seq. From August 2006 through February 10, 2007, while employed by real estate broker Mr. Cortez, respondent solicited prospective borrowers and/or lenders for loans secured directly or collaterally by liens on real property in expectation of compensation. Respondent and Mr. Cortez used a fictitious business name of Mortgage Express.

6. Alfred R. Lira and his mother Joyce A. Felix were among the prospective borrowers respondent solicited. Respondent knew Ms. Felix, encouraged her to purchase a home and showed her a house located at 546 4th Street in Mendota, California (Mendota property) that Ms. Felix liked. When Ms. Felix did not qualify for a loan, respondent suggested that Mr. Lira could be qualified for a loan.

To induce Mr. Lira to apply for the loan, respondent told Mr. Lira and Ms. Felix that she would waive her commission and pay the equivalent amount to Ms. Felix. Both Mr. Lira and Ms. Felix testified that respondent told them the amount would be between \$5,000 and \$6,000. Mr. Lira relied on respondent's representations. Respondent obtained personal information about Mr. Lira and completed a loan application for \$152,000 on his behalf dated September 19, 2006. This loan was submitted to lender Indymac Bank, FSB (Indymac) and closed on September 27, 2006. Ms. Felix testified that, after the loan application was completed, she never saw respondent again.

7. Respondent never paid Ms. Felix \$5,000 to \$6,000 or any money at all. Respondent made false representations to Mr. Lira and Ms. Felix without intending to waive her commission or pay any money to Ms. Felix. If he had known respondent's true intentions, Mr. Lira would not have completed the loan application to purchase the Mendota property.

8. On September 19, 2006, respondent obtained Mr. Lira's signature on a deed of trust needed to secure the purchase loan for the Mendota property. This document was required to be notarized. At the time Mr. Lira signed the deed of trust, a public notary was not present.

9. Respondent's daughter, Valerie Diana Valdez, is a licensed notary and was issued Commission No. 1640014 from the Secretary of State. Ms. Valdez was not present when Mr. Lira signed the deed. Mr. Lira testified that only respondent and Ms. Felix were present with him when he signed the deed. This was confirmed by Ms. Felix. Respondent had Mr. Lira sign the notary's logbook and she obtained his thumbprint. Respondent affixed the notary seal and acknowledgement to the deed of trust Mr. Lira signed.

10. To induce Indymac to approve Mr. Lira's loan, respondent submitted a "Uniform Residential Loan Application" (loan application) that represented Mr. Lira's monthly income as \$4,765. This representation was false. Mr. Lira testified that respondent completed the loan application for him, including by entering the monthly income figures, and submitted it to him for his signature. At the time he signed the loan application, Mr. Lira's monthly income was approximately \$3,000.

11. Respondent submitted Mr. Lira's loan application to induce lender Indymac to approve and fund the purchase loan for Mr. Lira's purchase of the Mendota property. In doing so, respondent knowingly and falsely represented to the lender: (a) Mr. Lira's monthly income; and (b) that the deed of trust had been properly witnessed and acknowledged by a notary public and was qualified to be recorded and impart constructive notice that the loan was secured by a lien on the Mendota property. Respondent did not disclose the true facts to Indymac.

12. In reliance on respondent's false representations, Indymac approved and funded the \$152,000 loan for Mr. Lira to purchase the Mendota property.

13. Ms. Felix testified that she and Mr. Lira could not make the \$1,300 monthly payments. They moved out in June 2009 after foreclosure on the Mendota property. She expressed fear of retaliation from respondent for testifying against her.

Collins Avenue Property

14. *Respondent's Employment with Broker Cortez:* Effective February 10, 2007, respondent had a restricted conditional salesperson license. Respondent continued to work with broker Cortez from this date until September 7, 2007, when Mr. Cortez's own license was suspended for failure to pay child support.

15. On approximately April 12, 2007, respondent solicited buyer Guadalupe Lopez for a refinance loan that was to be secured by liens on real property located at 736 Collins Avenue, Fresno, California (Collins Avenue property). Respondent made several false representations to induce Ms. Lopez to apply for a loan refinance. First, respondent stated she would arrange the new loan so that Ms. Lopez's monthly payment would be lower than it was at the time. Second, respondent stated that the loan would have a fixed rate of interest. Third, respondent

stated that the loan would have a lower interest rate than Ms. Lopez's existing mortgage.

16. In reliance on respondent's representations, Ms. Lopez applied for a \$168,000 loan to refinance the Collins Avenue property that was to be secured with a lien against that property. On May 10, 2007, as part of the loan application, Ms. Lopez signed a deed of trust that, on its face, indicated it was notarized by public notary Ms. Valdez. Ms. Valdez did not witness Ms. Lopez sign the deed. Ms. Lopez testified that the only people present when she signed the deed were her husband and the respondent. Respondent had Ms. Lopez sign the notary's logbook and she obtained her thumbprint. Respondent affixed the notary seal and acknowledgement to the deed of trust Ms. Lopez signed.

17. Long Beach Mortgage/Washington Mutual Bank (LBM/WM) was the lender. Respondent completed the loan application on respondent's behalf. To induce LBM/WM to approve Ms. Lopez's loan, respondent falsely indicated on the loan application: (a) that Ms. Lopez had a monthly income of \$3,986, and (b) that the deed of trust had been properly witnessed and acknowledged by a notary public and was qualified to be recorded and to impart constructive notice that the loan was secured by a lien on the Collins Avenue property. Respondent did not disclose the true facts to LMB/WM.

18. In reliance on the representations in the loan application, LBM/WM approved and funded the \$168,000 loan to refinance the Collins Avenue property. Respondent obtained an adjustable rate loan for Ms. Lopez that had a higher initial interest rate and higher monthly payments.

19. Ms. Lopez testified with the assistance of a Spanish Language interpreter. Ms. Lopez contacted respondent after seeing her advertisement on television. At the time, Ms. Lopez was engaged in seasonal work and she wanted to lower her house payments so she could have more cash flow for her family. At the time, her monthly payment was \$1,410.50. Respondent told Ms. Lopez that she could lower her payments to \$800 a month.

Ms. Lopez is unable to read or write in either Spanish or in English. She was completely dependent upon respondent's honesty and integrity in completing the loan application. Respondent did not explain the difference between fixed rate and variable rate loans and did not tell Ms. Lopez that she was applying for a variable rate loan. As a result of this loan, Ms. Lopez's payments initially went up to \$1,741.96 a month with an interest rate of 11.35 percent.

Liberty Avenue Property

20. *Respondent's License Status and Unlicensed Activity:* From September 7, 2007 through December 5, 2007, respondent was not employed by a broker.

During this time period, respondent engaged in unlicensed activity and acted as a real estate broker within the meaning of section 10131.

From December 5, 2007 through January 14, 2008, respondent was employed by licensed broker Hope Lopez. Ms. Lopez fired respondent for "hiding transactions" respondent was engaged in that Ms. Lopez was duty bound to supervise.

From January 14, 2008 through January 16, 2008, respondent was not employed by a broker. She engaged in unlicensed activity and acted as a real estate broker within the meaning of section 10131.

From January 17, 2008, through April 22, 2008, respondent was employed by licensed broker Lawrence John Medina. Broker Medina was the designated broker/officer for corporate brokers Camino and Santa Fe. Respondent was never licensed to be employed as salesperson under the corporate broker license of either Camino or Santa Fe; however, during some of this period, respondent was employed or compensated by Camino and Santa Fe.

21. On November 12, 2007, respondent acted as a broker when she solicited prospective purchasers to buy real estate for compensation. Respondent submitted a "Residential Purchase Agreement and Joint Escrow Instructions" (Agreement) to seller Rick Gross on behalf of Jose de Jesus Salazar as buyer, to purchase the real property located at 4030 East Liberty Avenue in Fresno, California (Liberty Avenue property).

22. Following counteroffers to respondent, on November 27, 2007, seller Mr. Gross signed the agreement accepting Mr. Salazar's offer to buy the Liberty Avenue property.

23. On January 18, 2008, while employed by broker Medina, respondent prepared and submitted a "Uniform Residential Loan Application" (loan application) from Mr. Salazar to obtain a \$170,050 loan to purchase the Liberty Avenue property. Respondent's signature appears on Mr. Salazar's loan application and lists her employer as Santa Fe Mortgage Company.

Matters in Aggravation

24. *Felony Convictions:* On November 10, 1993, the Fresno County Superior Court convicted respondent of felony violations of Welfare and Institutions Code sections 10980 (willfully and knowingly making false statements or failure to disclose material facts to obtain aid), and section 11483 (obtaining aid for a child by means of false statement). These crimes bear a substantial relationship to the qualifications, functions, and duties of a real estate licensee. (Cal. Code of Regs., tit. 10, § 2910.)

25. Effective January 11, 2007, pursuant to a Stipulation and Waiver in Case No. H-2003 FR, the department denied respondent's application for a conditional real estate salesperson license, and granted her a restricted conditional real estate salesperson license, based upon the convictions described in Factual Finding 24.

LEGAL CONCLUSIONS

1. In an Accusation seeking to revoke, suspend, or otherwise discipline respondent's professional license, the agency has the burden of proof to establish the allegations in the Accusation by "clear and convincing evidence." (*Ettinger v. Board of Medical Quality Assurance* (1982) 135 Cal.App. 3d 853, 856.) As set forth below, complainant has met its burden that the restricted real estate salesperson license issued to respondent should be revoked.

2. Section 10130 provides that "it is unlawful for any person to engage in the business, act in the capacity of, advertise or assume to act as a real estate broker or a real estate salesman within this state without first obtaining a real estate license from the department."

3. Section 10137 provides, in pertinent part, that "no real estate salesperson shall be employed by or accept compensation from any person other than the broker under whom he or she is at the time licensed."

4. The Real Estate Law defines a real estate broker as a person who engages in various acts or activities "for compensation or in expectation of compensation." Specifically, section 10131, subdivisions (a) and (d), define these acts to include: (a) selling, or offering to sell, buying or offering to buy, soliciting prospective sellers or purchasers of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property or a business opportunity; and (d) soliciting borrowers or lenders for or negotiating loans or collecting payments or performing 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. (§ 10131, subs. (a) and (d).)

5. Section 10176, subdivisions (a), (b), and (i), provide that the commissioner may "... temporarily suspend or permanently revoke a real estate license at any time where the licensee, while a real estate licensee, in performing or attempting to perform any of the acts within the scope of this chapter has been guilty of any of the following: (a) Making any substantial misrepresentation. . . ; (b) Making any false promises of a character likely to influence, persuade or induce; . . . and (i) Any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing."

6. Section 10177, subdivisions (f), (g), (j) and (k), authorize the commissioner to suspend or revoke the license of a real estate licensee where the individual licensee has done any of the following:

[¶] . . . [¶]

(f) Acted or conducted himself or herself in a manner that would have warranted the denial of his or her application for a real estate license, . . .

(g) Demonstrated negligence or incompetence in performing an act for which he or she is required to hold a license:

[¶] . . . [¶]

(j) Engaged in any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing.

(k) Violated any of the terms, conditions, restrictions, and limitations contained in an order granting a restricted license.

7. As set forth in the Factual Findings and Legal Conclusions as a whole, the Department has established legal cause for the revocation of respondent's license and licensing rights based upon her violations of section 10176, subdivisions (a), (b), and (i), and section 10177, subdivisions (f), (g), (j) and (k). Respondent's violation of each of these provisions constitutes a separate ground for discipline.

Respondent's conduct has demonstrated a pattern of willful violations of the Real Estate Law. Respondent has demonstrated a persistent disregard for licensing laws and she has preyed upon and made false and misleading statements to consumers and to lenders who have acted in good faith reliance on her representations. Respondent's false and dishonest representations have injured unsophisticated and illiterate consumers. It would be wholly contrary to the public interest to allow respondent to continue as a real estate licensee.

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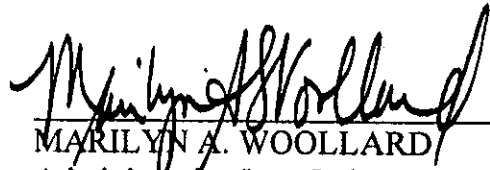
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ORDER

All licenses and licensing rights of Respondent Norma Aguayo under the Real Estate Law are hereby REVOKED.

DATED: June 23, 2011


MARILYN A. WOOLLARD
Administrative Law Judge
Office of Administrative Hearings

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED

AUG 11 2010

DEPARTMENT OF REAL ESTATE

By *L. Frost*

In the Matter of the Accusation of)
)
NORMA AGUAYO,)
BRIAN KEITH CORTEZ,)
LAWRENCE JOHN MEDINA,)
CAMINO REAL PROPERTIES, INC., and)
SANTA FE MORTGAGE, INC.,)
)
Respondents.)
_____)

NO. H-2343 FR

DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on July 22, 2010, and the findings of fact set forth herein, which are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

FINDINGS OF FACT

1

On January 21, 2009, John W. Sweeney made the Accusation in his official capacity as a Deputy Real Estate Commissioner of the State of California. The Accusation, Statement to Respondent and Notice of Defense were mailed, by regular and certified mail, to Respondent's last known mailing addresses on file with the Department of Real Estate (hereinafter "Department") on January 26, 2009.

2

On July 22, 2010, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

3

Respondent BRIAN KEITH CORTEZ (hereinafter "Respondent CORTEZ"), is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter "the Code").

4

At all times herein mentioned, Respondent CORTEZ was licensed by the Department of Real Estate (hereafter "the Department") as a real estate broker.

5

On February 10, 2007, the Department issued to Respondent NORMA AGUAYO (hereinafter "Respondent AGUAYO") a restricted conditional real estate salesperson license. On or about August 11, 2008, the restricted conditional real estate salesperson license of Respondent Aguayo was suspended pursuant to Section 10153.4 of the Code for failure to complete the education requirements specified in Section 10153.5 of the Code. At no time herein mentioned did the Department license Respondent AGUAYO as a real estate broker.

6

With reference to the facts set forth in Paragraphs 1 through 5, above, and at all times herein mentioned, Respondent CORTEZ engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the meaning of Sections 10131(d), including the operation of and conduct of a mortgage loan brokerage business with the public wherein Respondent CORTEZ solicited lenders and borrowers for or negotiated loans to be secured directly or collaterally by liens on real property or a business opportunity, or collected payments or performed services for borrowers or lenders or note owners in connection with loans to be secured directly or collaterally by liens on real property or a business opportunity on behalf of another or others for compensation or in expectation of compensation.

FIRST CAUSE OF ACTION

7

At no time prior to February 10, 2007, did the Department license Respondent AGUAYO either as a real estate broker or as a real estate salesperson.

8

Within the three year period prior to the filing of the Accusation, during the period from on or about August 2006, and continuing through on or about February 10, 2007, Respondent CORTEZ employed and compensated Respondent AGUAYO to perform the activities requiring a real estate license as alleged in Paragraph 6, above.

9

Between on or about August, 2006, and continuing through on or about February 10, 2007, in the course of the employment and activities described in Paragraphs 6, 7, and 8, above, Respondent AGUAYO solicited prospective borrowers and/or lenders for loans secured directly or collaterally by liens on real property and/or arranged or negotiated, such loans secured directly or collaterally by liens on real property for or in expectation of compensation, including, but not limited to, the following:

- 1.) Real property: 546 - 4th Street, Mendota, California.
Borrower/Purchaser: Alfred R. Lira.
Prospective Borrower Solicited: Joyce A. Felix.
Application Date: 9/19/06.
Purpose of Property: Borrower's primary residence.
Purpose of Loan: Purchase
Loan Amount: \$152,000.00
Lender: Indymac Bank, FSB
Close Date: 9/27/06

FOURTH CAUSE OF ACTION

10

Within the three year period prior to the filing of the Accusation, Respondent CORTEZ, in order to induce Indymac Bank, FSB., as lender, to approve and fund a \$152,000.00 loan to Borrower Lira for the purchase of, and to be secured by a lien against, the 4th Street property, submitted or caused to be submitted to said lender a "Uniform Residential Loan Application" (hereinafter "the loan application") containing representations that Borrower Lira earned a monthly income of \$4,765.00.

11

Within the three year period prior to the filing of the Accusation, on behalf of Borrower Lira, Respondent CORTEZ submitted or caused to be submitted to Indymac Bank, FSB, the loan application, which contained, in pertinent part, the following language:

"The following information is requested by the Federal Government for certain types of loan related to a dwelling in order to monitor the lender's compliance with equal credit opportunity, fair housing and home mortgage disclosure laws. You are not required to furnish this information, but are encouraged to do so. The law provides that a lender may discriminate neither on the basis of this information, nor on whether you choose to furnish it. If you furnish the information, please provide both ethnicity and race. For race, you may check more than one designation. If you do not furnish ethnicity, race, or sex, under Federal regulations, this lender is required to note the information on the basis of visual observation or surname. If you do not wish to furnish the information, please check the box below. (Lender must review the above material to assure that the disclosures satisfy all requirements to which the lender is subject under applicable state law for the particular type of loan applied for.)"

12

Following the statement quoted in Paragraph 11, above, a series of questions were set forth regarding the borrower's race, ethnicity, and sex on the loan application. The loan application indicated that Respondent CORTEZ had filled in the answers to the questions regarding the race, ethnicity, and sex of Borrower Lira and that Respondent CORTEZ had received this information from the borrower.

13

Respondent CORTEZ signed or authorized and/or permitted the signing of his name on the loan application on or about September 16, 2006, as the "Interviewer" and notated answers or authorized and/or permitted the notating of answers under the heading "To be Completed by Interviewer" indicating the "application was taken by . . . Face-to-face interview." In truth and in fact, Respondent CORTEZ had not met with Borrower Lira at any time, had not spoken to Borrower Lira at any time, had not taken any information directly from Borrower Lira, and had not verified any of the race, ethnicity, and sex information contained in the loan application.

14

The representation on the loan application that Respondent CORTEZ had interviewed Borrower Lira in person and had obtained the requested ethnicity, race, and sex information from borrower was false, and was known by Respondent CORTEZ to be false at the time he made it or at the time he authorized or caused the submission of the loan application to the lender, or was made, authorized, or caused to be submitted to the lender without reasonable grounds for believing such representations to be true.

15

Within the three years prior to the filing of the Accusation, Indymac Bank, FSB, as lender, in reliance upon the representations of Respondent CORTEZ as described in Paragraphs 1 through 14, inclusive, above, approved and funded the \$152,000.00 loan for the purchase of the 4th Street property by Borrower Lira.

16

Respondent's representations as described in Paragraphs 10 through 14, inclusive, above, were false or misleading and were known by Respondent to be false or misleading when made or were made by Respondent with no reasonable grounds for believing said representations to be true. In truth and in fact: Borrower Lira earned between \$3,200.00 and \$3,600.00 per month; Respondent CORTEZ had not met with Borrower Lira; Respondent CORTEZ had not spoken to Borrower Lira at any time; Respondent CORTEZ had not taken any information directly from Borrower Lira; Respondent CORTEZ had not verified any of the ethnicity, race, and sex information contained in the loan application; and, Respondent CORTEZ had neither obtained income information directly from the borrower nor verified the income information contained in the loan application.

17

Respondent failed to disclose to Indymac Bank, FSB, the true facts that: Borrower Lira earned between \$3,200.00 and \$3,600.00 per month; Respondent CORTEZ had not met with the borrower; Respondent CORTEZ had not spoken to Borrower Lira at any time; Respondent CORTEZ had not taken any information from Borrower Lira; Respondent CORTEZ had not verified any of the ethnicity, race, and sex information contained in the loan application; and, Respondent CORTEZ had neither obtained income information directly from the borrower nor verified the income information contained in the loan application.

Had Indymac Bank, FSB, known the true facts, it would not have approved and funded the \$152,000.00 loan to purchase the 4th Street property by Borrower Lira.

Respondent CORTEZ' acts and omissions as described in Paragraphs 10 through 18, inclusive, above, constituted the making of substantial misrepresentations, fraud, and dishonest dealing.

DETERMINATION OF ISSUES

The acts and/or omissions of Respondent CORTEZ constitute grounds for the revocation or suspension of Respondent's licenses and/or license rights under the following provisions:

- (a) As alleged in Paragraphs 7 through 9, inclusive, above, under Section 10130 of the Code (unlawful for anyone to engage in business of, act in capacity of, advertise or assume to act as real estate broker or salesperson unless licensed and Section 10137 of the Code (unlawful for licensed real estate broker to employ or compensate any person for acts requiring a real estate license) all in conjunction with Section 10177(d) of the Code (providing for revocation or suspension of a real estate license for violations of the Real Estate Law under Sections 10000 et seq. of the Code or for violations of the Commissioner's Regulations, Chapter 6, Title 10, California Code of Regulations);
- (b) As alleged in Paragraphs 10 through 19, inclusive, above, under Section 10176(a) of the Code (making a substantial misrepresentation);
- (c) As alleged in Paragraphs 10 through 19, inclusive, above, under Section 10176(b) of the Code (making false promises of a character likely to influence, persuade or induce);
- (d) As alleged in Paragraphs 10 through 19, inclusive, above, under Section 10176(i) of the Code (any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing);
- (e) As alleged in Paragraphs 10 through 19, inclusive, above, under Section 10177(g) of the Code (demonstrated negligence or incompetence performing an act for which a license is required); and,

- (f) As alleged in Paragraphs 10 through 19, inclusive, above, under Section 10177(j) of the Code (any other conduct, whether of the same or a different character than specified in this section, which constitutes fraud or dishonest dealing).

21

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

All licenses and licensing rights of Respondent BRIAN KEITH CORTEZ under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on AUG 31 2010

DATED: 7-30-2010

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789
5
6
7

FILED
MAY 26 2010
DEPARTMENT OF REAL ESTATE
By L. Frost

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 NORMA AGUAYO,) NO. H-2343 FR
13 BRIAN KEITH CORTEZ,)
14 LAWRENCE JOHN MEDINA,) STIPULATION AND AGREEMENT
15 CAMINO REAL PROPERTIES, INC., and)
16 SANTA FE MORTGAGE, INC.,)
17 Respondents.)

18 It is hereby stipulated by and between Respondent LAWRENCE JOHN
19 MEDINA (hereinafter referred to as "Respondent"), acting by and through his attorney, Steven
20 L. Simas, and the Complainant, acting by and through Michael B. Rich, Counsel for the
21 Department of Real Estate, as follows for the purpose of settling and disposing of the
22 Accusation filed on January 26, 2009, in this matter (hereinafter "the Accusation"):

23 1. All issues which were to be contested and all evidence which was to be
24 presented by Complainant and Respondent at a formal hearing on the Accusation, which
25 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
26 (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of
27 this Stipulation and Agreement.

H-2343 FR

LAWRENCE J. MEDINA

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

4 3. On February 17, 2009, Respondent filed a Notice of Defense pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
7 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
8 Notice of Defense Respondent will thereby waive Respondent's right to require the
9 Commissioner to prove the allegations in the Accusation at a contested hearing held in
10 accordance with the provisions of the APA and that Respondent will waive other rights
11 afforded to Respondent in connection with the hearing such as the right to present evidence in
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13 4. Respondent, pursuant to the limitations set forth below, hereby admits that
14 the factual allegations in the Accusation pertaining to Respondent are true and correct and
15 stipulates and agrees that the Real Estate Commissioner shall not be required to provide further
16 evidence of such allegations.

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

24 6. This Stipulation and Agreement shall not constitute an estoppel, merger or
25 bar to any further administrative or civil proceedings by the Department of Real Estate with
26 respect to any matters which were not specifically alleged to be causes for accusation in this
27 proceeding.

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions and waivers and solely for
3 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
4 that the following Determination of Issues shall be made:

5 I

6 The acts and omissions of Respondent LAWRENCE JOHN MEDINA described
7 in the Accusation are grounds for the suspension or revocation of the licenses and license rights
8 of Respondent under the provisions of Section 10177(h) of the Business and Professions Code
9 (hereinafter "the Code") and/or Section 10159.2 of the Code and Section 2725 of Chapter 6,
10 Title 10, California Code of Regulations (hereinafter "Regulations") all in conjunction with
11 Section 10177(d) of the Code.

12 ORDER

13 I

14 A. All licenses and licensing rights of Respondent LAWRENCE JOHN
15 MEDINA under the Real Estate Law are suspended for a period of ninety (90) days from the
16 effective date of this Decision; provided, however, that ninety (90) days of said suspension shall
17 be stayed for two (2) years upon the following terms and conditions:


18 1. Respondent shall obey all laws, rules and regulations governing the rights,
19 duties and responsibilities of a real estate licensee in the State of California; and

20 2. That no final subsequent determination be made, after hearing or upon
21 stipulation, that cause for disciplinary action occurred within two (2) years of the effective date
22 of this Decision. Should such a determination be made, the Commissioner may, in his
23 discretion, vacate and set aside the stay order and re-impose all or a portion of the stayed
24 suspension. Should no such determination be made, the stay imposed herein shall become
25 permanent.

26 B. Respondent shall, within six (6) months from the effective date of this
27 Decision, take and pass the Professional Responsibility Examination administered by the

1 Department including the payment of the appropriate examination fee. If Respondent fails to
2 satisfy this condition, the Commissioner may order suspension of Respondent's license until
3 Respondent passes the examination.

4
5
6 4/23/10
7 DATED


MICHAEL B. RICH, Counsel
Department of Real Estate

8
9 * * *

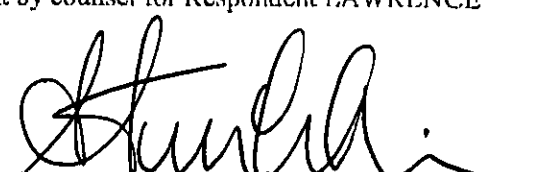
10 I have read the Stipulation and Agreement and its terms are understood by
11 me and are agreeable and acceptable to me. I understand that I am waiving rights given to me
12 by the California Administrative Procedure Act (including but not limited to Sections 11506,
13 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
14 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
15 allegations in the Accusation at a hearing at which I would have the right to cross-examine
16 witnesses against me and to present evidence in defense and mitigation of the charges.

17
18 4/16/2010
19 DATED


LAWRENCE JOHN MEDINA
Respondent

20
21 Approved as to form and content by counsel for Respondent LAWRENCE
22 JOHN MEDINA.

23
24 4/19/2010
25 DATED


STEVEN L. SIMAS
Attorney for Respondent

26 ///

27 //

H-2343 FR

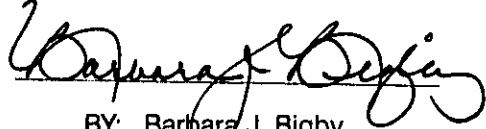
LAWRENCE J. MEDINA

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The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent LAWRENCE JOHN MEDINA and shall become
effective at 12 o'clock noon on JUN 15 2010

IT IS SO ORDERED 5/21, 2010.

JEFF DAVI
Real Estate Commissioner


BY: Barbara J. Bigby
Chief Deputy Commissioner

FILED

MAY 26 2010

DEPARTMENT OF REAL ESTATE

By L. J. [Signature]

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

NORMA AGUAYO,
BRIAN KEITH CORTEZ,
LAWRENCE JOHN MEDINA,
CAMINO REAL PROPERTIES, INC., and
SANTA FE MORTGAGE, INC.

Respondents.

No. H-2343 FR

ORDER ACCEPTING VOLUNTARY SURRENDER OF REAL ESTATE LICENSE

On January 26, 2009 an Accusation was filed in this matter against Respondents NORMA AGUAYO, BRIAN KEITH CORTEZ, LAWRENCE JOHN MEDINA, CAMINO REAL PROPERTIES, INC., and SANTA FE MORTGAGE, INC.

On April 16, 2010, Respondent CAMINO REAL PROPERTIES, INC. petitioned the Commissioner to voluntarily surrender its real estate license(s) pursuant to Section 10100.2 of the Business and Professions Code.

IT IS HEREBY ORDERED that Respondent CAMINO REAL PROPERTIES, INC., 's petition for voluntary surrender of its real estate license(s) is accepted as of the effective date of this Order as set forth below, based upon the understanding and agreement expressed in Respondent's Declaration dated April 16, 2010 (attached as Exhibit "A" hereto). Respondent's

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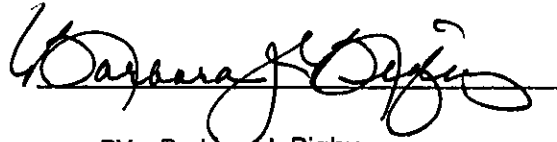
1 license certificate and pocket card shall be sent to the below listed address so that they reach the
2 Department on or before the effective date of this Order:

3
4 DEPARTMENT OF REAL ESTATE
5 Attn: Licensing Flag Section
6 P. O. Box 187000
7 Sacramento, CA 95818-7000

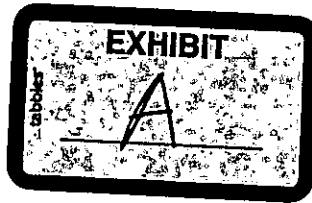
8 This Order shall become effective at 12 o'clock noon on JUN 15 2010

9 DATED: 5/21/10

10 JEFF DAVI
11 Real Estate Commissioner

12 

13 BY: Barbara J. Bigby
14 Chief Deputy Commissioner



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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
) NO. H-2343 FR
NORMA AGUAYO,)
BRIAN KEITH CORTEZ,)
LAWRENCE JOHN MEDINA,)
CAMINO REAL PROPERTIES, INC., and)
SANTA FE MORTGAGE, INC.,)
)
Respondents.)

DECLARATION

My name is LAWRENCE JOHN MEDINA, and I am currently an officer of CAMINO REAL PROPERTIES, INC., which is licensed as a real estate broker and/or has license rights with respect to said license. I am authorized and empowered to sign this declaration on behalf of CAMINO REAL PROPERTIES, INC. CAMINO REAL PROPERTIES, INC., is represented in this matter by Steven L. Simas, Attorney at Law.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Business and Professions Code), CAMINO REAL PROPERTIES, INC., wishes to voluntarily surrender its real estate license(s)

H-2343 FR

CAMINO REAL PROPERTIES, INC.

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

3 CAMINO REAL PROPERTIES, INC., understands that by so voluntarily
4 surrendering its license(s), it may be relicensed as a broker only by petitioning for reinstatement
5 pursuant to Section 11522 of the Government Code. CAMINO REAL PROPERTIES, INC.,
6 also understands that by so voluntarily surrendering its license(s), it agrees to the following:

7 1. The filing of this Declaration shall be deemed as the petition of CAMINO
8 REAL PROPERTIES, INC., for voluntary surrender.

9 2. It shall also be deemed to be an understanding and agreement by
10 CAMINO REAL PROPERTIES, INC., that it waives all rights it has to require the
11 Commissioner to prove the allegations contained in the Accusation filed in this matter at a
12 hearing held in accordance with the provisions of the Administrative Procedure Act
13 (Government Code Sections 11400 et seq.), and that it also waives other rights afforded to it in
14 connection with the hearing such as the right to discovery, the right to present evidence in
15 defense of the allegations in the Accusation and the right to cross-examine witnesses.

16 3. CAMINO REAL PROPERTIES, INC., further agrees that upon
17 acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits and all
18 relevant evidence obtained by the Department in this matter prior to the Commissioner's
19 acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-
20 2343FR, may be considered by the Department to be true and correct for the purpose of deciding
21 whether to grant relicensure or reinstatement pursuant to Government Code Section 11522.

22 4. CAMINO REAL PROPERTIES, INC., freely and voluntarily surrenders
23 all of its licenses and license rights under the Real Estate Law.

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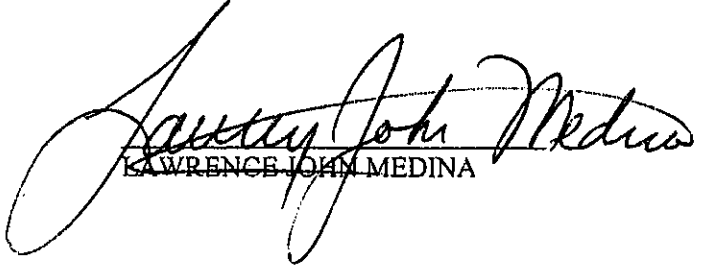
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H-2343 FR

CAMINO REAL PROPERTIES, INC.

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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 4/16/2010
2010, at SACRAMENTO, California.


LAWRENCE JOHN MEDINA

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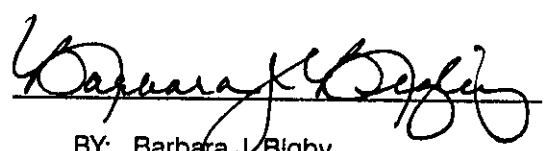
license certificate and pocket card shall be sent to the below listed address so that they reach the Department on or before the effective date of this Order:

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 JUN 15 2010

DATED: 5/21/10

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner



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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
) NO. H-2343 FR
NORMA AGUAYO,)
BRIAN KEITH CORTEZ,)
LAWRENCE JOHN MEDINA,)
CAMINO REAL PROPERTIES, INC., and)
SANTA FE MORTGAGE, INC.,)
)
Respondents.)

DECLARATION

My name is LAWRENCE JOHN MEDINA, and I am currently an officer of SANTA FE MORTGAGE, INC., which is licensed as a real estate broker and/or has license rights with respect to said license. I am authorized and empowered to sign this declaration on behalf of SANTA FE MORTGAGE, INC. SANTA FE MORTGAGE, INC., is represented in this matter by Steven L. Simas, Attorney at Law.

In lieu of proceeding in this matter in accordance with the provisions of the Administrative Procedure Act (Sections 11400 et seq., of the Business and Professions Code), SANTA FE MORTGAGE, INC., wishes to voluntarily surrender its real estate license(s) issued

H-2343 FR

SANTA FE MORTGAGE, INC.

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

3 SANTA FE MORTGAGE, INC., understands that by so voluntarily surrendering
4 its license(s), it may be relicensed as a broker only by petitioning for reinstatement pursuant to
5 Section 11522 of the Government Code. SANTA FE MORTGAGE, INC., also understands that
6 by so voluntarily surrendering its license(s), it agrees to the following:

7 1. The filing of this Declaration shall be deemed as the petition of SANTA
8 FE MORTGAGE, INC., for voluntary surrender.

9 2. It shall also be deemed to be an understanding and agreement by SANTA
10 FE MORTGAGE, INC., that it waives all rights it has to require the Commissioner to prove the
11 allegations contained in the Accusation filed in this matter at a hearing held in accordance with
12 the provisions of the Administrative Procedure Act (Government Code Sections 11400 et seq.),
13 and that it also waives other rights afforded to it in connection with the hearing such as the right
14 to discovery, the right to present evidence in defense of the allegations in the Accusation and the
15 right to cross-examine witnesses.

16 3. SANTA FE MORTGAGE, INC., further agrees that upon acceptance by
17 the Commissioner, as evidenced by an appropriate order, all affidavits and all relevant evidence
18 obtained by the Department in this matter prior to the Commissioner's acceptance, and all
19 allegations contained in the Accusation filed in the Department Case No. H-2343FR, may be
20 considered by the Department to be true and correct for the purpose of deciding whether to grant
21 relicensure or reinstatement pursuant to Government Code Section 11522.

22 4. SANTA FE MORTGAGE, INC., freely and voluntarily surrenders all of
23 its licenses and license rights under the Real Estate Law.

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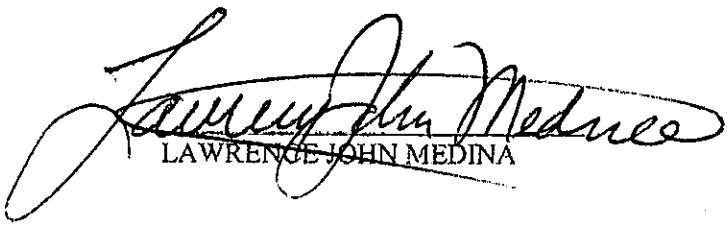
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H-2343 FR

SANTA FE MORTGAGE, INC.

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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 4/16/2010,
2010, at SACRAMENTO, California.


LAWRENCE JOHN MEDINA

FLAB

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-1126

FILED
JAN 26 2009
DEPARTMENT OF REAL ESTATE
By *A. Frost*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	
12)	NO. H-2343 FR
13	NORMA AGUAYO,)	
14	BRIAN KEITH CORTEZ,)	ACCUSATION
15	LAWRENCE JOHN MEDINA,)	
16	CAMINO REAL PROPERTIES, INC., and)	
17	SANTA FE MORTGAGE, INC.,)	
)	
	Respondents.)	

18 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of
19 the State of California, for Accusation against Respondent NORMA AGUAYO, Respondent
20 BRIAN KEITH CORTEZ, doing business under the fictitious business name of MORTGAGE
21 EXPRESS, Respondent LAWRENCE JOHN MEDINA, Respondent CAMINO REAL
22 PROPERTIES, INC., and Respondent SANTA FE MORTGAGE, INC., is informed and alleges
23 as follows:

24 1

25 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner of
26 the State of California, makes this Accusation against Respondent in his official capacity.

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Respondent NORMA AGUAYO, Respondent BRIAN KEITH CORTEZ, Respondent LAWRENCE JOHN MEDINA, Respondent CAMINO REAL PROPERTIES, INC., AND Respondent SANTA FE MORTGAGE, INC., are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "the Code").

3.

On February 10, 2007, the Department of Real Estate (hereinafter "Department") issued to Respondent NORMA AGUAYO (hereinafter "Respondent AGUAYO") a restricted conditional real estate salesperson license. On or about August 11, 2008, the restricted conditional real estate salesperson license of Respondent Aguayo was suspended pursuant to Section 10153.4 of the Code for failure to complete the education requirements specified in Section 10153.5 of the Code. At no time herein mentioned did the Department license Respondent AGUAYO as a real estate broker.

4

At all times herein mentioned, Respondent BRIAN KEITH CORTEZ (hereinafter "Respondent CORTEZ") was licensed by the Department as a real estate broker, until September 7, 2007, when said license was suspended pursuant to Section 17520 of the Family Code.

5

At all times herein mentioned, Respondent CAMINO REAL PROPERTIES, INC., (hereafter "Respondent CAMINO") was and now is licensed by the Department as a corporate real estate broker.

6

At all times herein mentioned, Respondent SANTA FE MORTGAGE, INC., (hereafter "Respondent SANTA FE") was and now is licensed by the Department as a corporate real estate broker.

1 7

2 At all times herein mentioned, Respondent LAWRENCE JOHN MEDINA
3 (hereafter "Respondent MEDINA") was and now is licensed by the Department as a real estate
4 broker.

5 8

6 At all times herein mentioned, Respondent MEDINA was and is licensed by the
7 Department as the designated broker/officer of Respondent CAMINO. As said designated
8 Broker/officer, Respondent MEDINA was at all times mentioned herein responsible pursuant to
9 Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real
10 estate licensees and employees of Respondent CAMINO for which a real estate license is
11 required.

12 9

13 Whenever reference is made in an allegation in this Accusation to an act or
14 omission of Respondent CAMINO, such allegation shall be deemed to mean that the officers,
15 directors, employees, agents and real estate licensees employed by or associated with Respondent
16 CAMINO committed such act or omission while engaged in the furtherance of the business or
17 operations of Respondent CAMINO and while acting within the course and scope of their
18 corporate authority and employment.

19 10

20 At all times herein mentioned, Respondent MEDINA was and is licensed by the
21 Department as the designated broker/officer of Respondent SANTA FE. As said designated
22 Broker/officer, Respondent MEDINA was at all times mentioned herein responsible pursuant to
23 Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real
24 estate licensees and employees of Respondent SANTA FE for which a real estate license is
25 required.

26 ///

27 ///

Whenever reference is made in an allegation in this Accusation to an act or omission of Respondent SANTA FE, such allegation shall be deemed to mean that the officers, directors, employees, agents and real estate licensees employed by or associated with Respondent SANTA FE committed such act or omission while engaged in the furtherance of the business or operations of Respondent SANTA FE and while acting within the course and scope of their corporate authority and employment.

FIRST CAUSE OF ACTION

There is hereby incorporated in this First, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 11, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

Within the three years prior to the filing of this Accusation and at all times herein mentioned, Respondent CORTEZ engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within the State of California within the meaning of Section 10131(d) of the Code, including the operation of and conduct of a mortgage loan brokerage business with the public wherein Respondent CORTEZ solicited lenders and borrowers for or negotiated loans to be secured directly or collaterally by liens on real property or a business opportunity, or collected payments or performed services for borrowers or lenders or note owners in connection with loans to be secured directly or collaterally by liens on real property or a business opportunity on behalf of another or others for compensation or in expectation of compensation.

At no time prior to February 10, 2007, did the Department license Respondent AGUAYO either as a real estate broker or as a real estate salesperson.

///

1
2 Within the three year period prior to the filing of this Accusation, during the
3 period from on or about August 2006, and continuing through on or about February 10, 2007,
4 Respondent CORTEZ employed and compensated Respondent AGUAYO to perform the
5 activities requiring a real estate license as alleged in Paragraph 13, above.

6
7 Between on or about August, 2006, and continuing through on or about February
8 10, 2007, in the course of the employment and activities described in Paragraphs 13 and 15,
9 above, Respondent AGUAYO solicited prospective borrowers and/or lenders for loans secured
10 directly or collaterally by liens on real property and/or arranged or negotiated, such loans
11 secured directly or collaterally by liens on real property for or in expectation of compensation,
12 including, but not limited to, the following:

13 1.) Real Property: 546 – 4th Street, Mendota, California.

14 Borrower/Purchaser: Alfred R. Lira.

15 Prospective Borrower Solicited: Joyce A. Felix.

16 Application Date: 9/19/06.

17 Purpose of Property: Borrower's primary residence.

18 Purpose of Loan: Purchase.

19 Loan Amount: \$152,000.00.

20 Lender: Indymac Bank, FSB.

21 Close Date: 9/27/06

22
23 The facts alleged above constitute cause for the suspension or revocation of the
24 licenses and license rights of Respondents CORTEZ and AGUAYO under Sections 10130 and
25 10137 of the Code in conjunction with Section 10177(d) of the Code, and constitute cause for
26 the suspension or revocation of the licenses and license rights of Respondent AGUAYO under
27 Section 10177(f) and 10177(k).

1 SECOND CAUSE OF ACTION

2 18

3 There is hereby incorporated in this Second, separate and distinct, Cause of
4 Action, all of the allegations contained in Paragraphs 1 through 17, inclusive, of the Accusation
5 with the same force and effect as if herein fully set forth.

6 19

7 Within the three years prior to the filing of this Accusation, in the course of the
8 activities described in Paragraphs 13, 14, 15, and 16, above, Respondent AGUAYO solicited
9 Joyce A. Felix, and her son, Alfred R. Lira, for a loan to be secured directly or collaterally by
10 liens on real property described as 546 – 4th Street, Mendota, California (hereinafter “4th Street
11 property”), wherein such loan was to be solicited, arranged, negotiated, and consummated
12 through Respondents CORTEZ and AGUAYO.

13 20

14 Within three years prior to the filing of this Accusation, in order to induce Alfred
15 R. Lira (hereinafter “Borrower Lira”) to apply for the loan to purchase the 4th Street property,
16 Respondent AGUAYO represented that she would waive her commission and pay the amount of
17 her commission, a sum between \$5,000.00 and \$6,000.00, to Borrower Lira’s mother, Joyce A.
18 Felix.

19 21

20 Within the three years prior to the filing of this Accusation, on or about
21 September 19, 2006, in reliance upon the representations of Respondent AGUAYO as described
22 in Paragraph 20, above, Borrower Lira applied to Respondents AGUAYO and CORTEZ for a
23 loan to purchase the 4th Street property.

24 22

25 Respondent’s representations as described in Paragraph 20, above, were false or
26 misleading and were known by Respondent AGUAYO to be false or misleading when made or
27 were made by Respondent AGUAYO with no reasonable grounds for believing said

1 representations to be true. In truth and in fact: Respondent AGUAYO did not intend to waive
2 her commission; Respondent AGUAYO did not intend to pay between \$5,000.00 and \$6,000.00
3 to Borrower Lira's mother, Joyce A. Felix; and, Respondent AGUAYO did not intend to pay
4 any sum of money to Borrower Lira's mother, Joyce A. Felix.

5 23

6 Respondent AGUAYO failed to disclose to Borrower Lira and to Joyce A. Felix
7 the true facts that: Respondent AGUAYO did not intend to waive her commission; Respondent
8 AGUAYO did not intend to pay between \$5,000.00 and \$6,000.00 to Borrower Lira's mother,
9 Joyce A. Felix; and, Respondent AGUAYO did not intend to pay any sum of money to
10 Borrower Lira's mother, Joyce A. Felix.

11 24

12 Had Borrower Lira known the true facts, he would not have applied for the loan
13 to purchase the 4th Street property through Respondents CORTEZ and AGUAYO.

14 25

15 Respondent AGUAYO's acts and omissions as described in Paragraphs 19
16 through 23, inclusive, above, constituted fraud and dishonest dealing.

17 26

18 The facts alleged in Paragraphs 19 through 23, inclusive, above, are grounds for
19 the suspension or revocation of the licenses or license rights of Respondent AGUAYO under
20 Sections 10177(f), 10177(g), 10177(j) and 10177(k) of the Code.

21 THIRD CAUSE OF ACTION

22 27

23 There is hereby incorporated in this Third, separate and distinct, Cause of Action,
24 all of the allegations contained in Paragraphs 1 through 26, inclusive, of the Accusation with the
25 same force and effect as if herein fully set forth.

26 ///

27 ///

1 28

2 On or about September 19, 2006, Respondent AGUAYO obtained Borrower
3 Lira's signature on a deed of trust to secure the purchase loan for the purchase of the 4th Street
4 property.

5 29

6 At no time was a duly commissioned notary public present when Borrower Lira
7 executed the deed of trust to secure the purchase loan for the purchase of the 4th Street property.

8 30

9 On or about September 19, 2006, when Borrower Lira signed the deed of trust to
10 secure the purchase loan for the 4th Street property, Respondent AGUAYO affixed and/or
11 arranged to have affixed to the deed of trust the notarial seal and the printed notarial
12 acknowledgement of Valerie Diana Valdez, a notary public under a commission issued by the
13 California Secretary of State, Commission No. 1640014, and personally obtained and entered
14 into the notary's logbook the signature, date of signing, and thumbprint of Borrower Lira.

15 31

16 Valerie Diana Valdez was not present when Borrower Lira signed the deed of
17 trust, signed the notary's logbook, and when Borrower Lira entered his thumbprint into the
18 notary's logbook.

19 32

20 Within three years prior to the filing of this Accusation, Respondent AGUAYO,
21 in order to induce Indymac Bank, FSB., as lender, to approve and fund the purchase loan for
22 Borrower Lira's purchase of the 4th Street property, submitted to or caused to be submitted to
23 said lender the deed of trust executed by Borrower Lira, and thereby represented to said lender
24 that said deed of trust had been duly and properly witnessed and acknowledged by a duly
25 commissioned notary public, Valerie Diana Valdez, in accordance with Government Code
26 Section 27282 and that the deed of trust was validly qualified for purposes of recordation to
27 impart constructive notice that the loan was secured by a lien against the 4th Street property.

Respondent's representations as described in Paragraph 32, above, were false or misleading and were known by Respondent AGUAYO to be false or misleading when made or were made by Respondent AGUAYO with no reasonable grounds for believing said representations to be true. In truth and in fact, Respondent AGUAYO knew that: the deed of trust had not been validly acknowledged in accordance with California law and was not valid for purposes of recordation; Respondent AGUAYO had obtained the signature of Borrower Lira outside the presence of a notary public; Respondent AGUAYO, not Valerie Diana Valdez, had obtained and entered into the notary's logbook the signature, date of signing, and thumbprint of Borrower Lira; and that neither Valerie Diana Valdez nor any other duly commissioned notary public had witnessed the signing of the deed of trust by Borrower Lira.

Within the three years prior to the filing of this Accusation, Indymac Bank, FSB, in reliance upon the representation that the signature of Borrower Lira on the deed of trust was validly acknowledged by a notary public and suitable for recordation, approved and funded the purchase loan for the purchase of the 4th Street property by Borrower Lira.

Respondent AGUAYO failed to disclose to the lender, Indymac Bank, FSB, the true facts that: the deed of trust had not been validly acknowledged in accordance with California law and was not valid for purposes of recordation; Respondent AGUAYO had obtained the signature of Borrower Lira outside the presence of a notary public; Respondent AGUAYO, not Valerie Diana Valdez, had obtained and entered into the notary's logbook the signature, date of signing, and thumbprint of Borrower Lira; and that neither Valerie Diana Valdez nor any other duly commissioned notary public had witnessed the signing of the deed of trust by Borrower Lira.

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Had lender Indymac Bank, FSB, known the true facts, it would not have accepted the deed of trust and would not have approved or funded the loan for the purchase of the 4th Street property by Borrower Lira.

Respondent AGUAYO's acts and omissions as described in Paragraphs 28 through 35, inclusive, above, constituted fraud and dishonest dealing.

The facts alleged in Paragraphs 28 through 35, inclusive, above, are grounds for the suspension or revocation of the licenses or license rights of Respondent AGUAYO under Sections 10177(f), 10177(g), 10177(j) and 10177(k) of the Code.

FOURTH CAUSE OF ACTION

There is hereby incorporated in this Fourth, separate and distinct, Cause of Action, all of the allegations contained in Paragraphs 1 through 38, inclusive, of the Accusation with the same force and effect as if herein fully set forth.

Within the three year period prior to the filing of this Accusation, Respondents CORTEZ and AGUAYO, in order to induce Indymac Bank, FSB., as lender, to approve and fund a \$152,000.00 loan to Borrower Lira for the purchase of, and to be secured by a lien against, the 4th Street property, submitted or caused to be submitted to said lender a "Uniform Residential Loan Application" (hereinafter "the loan application") containing representations that Borrower Lira earned a monthly income of \$4,765.00.

Within the three year period prior to the filing of this Accusation, on behalf of Borrower Lira, Respondent CORTEZ submitted or caused to be submitted to Indymac Bank, FSB, the loan application, which contained, in pertinent part, the following language:

1 Lira, and had not verified any of the race, ethnicity, and sex information contained in the loan
2 application.

3 44

4 The representation on the loan application that Respondent CORTEZ had
5 interviewed Borrower Lira in person and had obtained the requested ethnicity, race, and sex
6 information from borrower was false, and was known by Respondent CORTEZ to be false at the
7 time he made it or at the time he authorized or caused the submission of the loan application to
8 the lender, or was made, authorized, or caused to be submitted to the lender without reasonable
9 grounds for believing such representations to be true..

10 45

11 Within the three years prior to the filing of this Accusation, Indymac Bank, FSB,
12 as lender, in reliance upon the representations of Respondent CORTEZ and AGUAYO as
13 described in Paragraphs 40 through 44, inclusive, above, approved and funded the \$152,000.00
14 loan for the purchase of the 4th Street property by Borrower Lira.

15 46

16 Respondents' representations as described in Paragraphs 40 through 44,
17 inclusive, above, were false or misleading and were known by Respondents to be false or
18 misleading when made or were made by Respondents with no reasonable grounds for believing
19 said representations to be true. In truth and in fact: Borrower Lira earned between \$3,200.00
20 and \$3,600.00 per month; Respondent CORTEZ had not met with Borrower Lira; Respondent
21 CORTEZ had not spoken to Borrower Lira at any time; Respondent CORTEZ had not taken any
22 information directly from Borrower Lira; Respondent CORTEZ and not verified any of the
23 ethnicity, race, and sex information contained in the loan application; and, Respondent
24 CORTEZ had neither obtained income information directly from the borrower nor verified the
25 income information contained in the loan application.

26 ///

27 ///

1
2 Respondents failed to disclose to Indymac Bank, FSB, the true facts that:
3 Borrower Lira earned between \$3,200.00 and \$3,600.00 per month; Respondent CORTEZ had
4 not met with the borrower; Respondent CORTEZ had not spoken to Borrower Lira at any time;
5 Respondent CORTEZ had not taken any information from Borrower Lira; Respondent
6 CORTEZ and not verified any of the ethnicity, race, and sex information contained in the loan
7 application; and, Respondent CORTEZ had neither obtained income information directly from
8 the borrower nor verified the income information contained in the loan application.

9
10 Had Indymac Bank, FSB, known the true facts, it would not have approved and
11 funded the \$152,000.00 loan to purchase the 4th Street property by Borrower Lira.

12
13 Respondent AGUAYO's acts and omissions as described in Paragraphs 40
14 through 47, inclusive, above, constituted fraud and dishonest dealing.

15
16 Respondents CORTEZ' acts and omissions as described in Paragraphs 40
17 through 47, inclusive, above, constituted the making of substantial misrepresentations, fraud,
18 and dishonest dealing.

19
20 The facts alleged in Paragraphs 40 through 47, inclusive, above, are grounds for
21 the suspension or revocation of the licenses or license rights of Respondent AGUAYO under
22 Sections 10177(f), 10177(g), 10177(j) and 10177(k) of the Code.

23
24 The facts alleged in Paragraphs 40 through 47, inclusive, above, are grounds for
25 the suspension or revocation of the licenses or license rights of Respondent CORTEZ under
26 Sections 10176(a), 10176(b), 10176(i), 10177(g), and 10177(j) of the Code.

27 ///

1 FIFTH CAUSE OF ACTION

2 53

3 There is hereby incorporated in this Fifth, separate and distinct, Cause of Action,
4 all of the allegations contained in Paragraphs 1 through 52, inclusive, of the Accusation with the
5 same force and effect as if herein fully set forth.

6 54

7 On February 10, 2007, as a holder of a restricted conditional salesperson license,
8 Respondent AGUAYO was employed as a licensed salesperson under the broker license of
9 Respondent CORTEZ.

10 55

11 Within the three years prior to the filing of this Accusation, in the course of the
12 activities described in Paragraph 13, above, Respondent AGUAYO solicited Guadalupe Lopez
13 (hereinafter "Borrower Lopez") for a refinance loan to be secured directly or collaterally by liens
-14 on real property described as 736 Collins Avenue, Fresno, California (hereinafter "Collins
15 Avenue property"), wherein such loan was to be solicited, arranged, negotiated, and
16 consummated through Respondents CORTEZ and AGUAYO doing business under the fictitious
17 business name of MORTGAGE EXPRESS.

18 56

19 Within three years prior to the filing of this Accusation, in order to induce
20 Borrower Lopez to apply for the loan to refinance the Collins Avenue property, Respondent
21 AGUAYO represented that she would obtain a new loan that would lower Borrower Lopez'
22 existing payments, have a fixed rate of interest, and a lower interest rate than Borrower Lopez'
23 existing mortgage.

24 57

25 Within the three years prior to the filing of this Accusation, on or about April 12,
26 2007, in reliance upon the representations of Respondent AGUAYO as described in Paragraph

27 ///

1 56, above, Borrower Lopez applied to Respondents AGUAYO and CORTEZ for a loan to
2 refinance the existing loan secured by the Collins Avenue property.

3 58

4 Respondent's representations as described in Paragraph 56, above, were false or
5 misleading and were known by Respondent AGUAYO to be false or misleading when made or
6 were made by Respondent AGUAYO with no reasonable grounds for believing said
7 representations to be true. In truth and in fact: Respondent AGUAYO did not intend to obtain
8 and did not in fact obtain a loan for Borrower Lopez having a fixed rate or a lower interest rate
9 or lower monthly payments than the borrower's existing mortgage; and, Respondent AGUAYO
10 obtained an adjustable rate loan with a higher initial interest rate and higher monthly payments.

11 59

12 Respondent AGUAYO failed to disclose to Borrower Lopez the true facts that:
13 Respondent AGUAYO did not intend to obtain and did not in fact obtain a loan for Borrower
14 Lopez having a fixed rate or a lower interest rate or lower monthly payments than the
15 borrower's existing mortgage; and, Respondent AGUAYO obtained an adjustable rate loan with
16 a higher initial interest rate and higher monthly payments.

17 60

18 Had Borrower Lopez known the true facts, she would not have applied for the
19 loan to refinance the Collins Avenue property through Respondents CORTEZ and AGUAYO.

20 61

21 Within the three year period prior to the filing of this Accusation, Respondent
22 AGUAYO, in order to induce Long Beach Mortgage, a subsidiary of Washington Mutual Bank,
23 as lender, to approve and fund a \$168,000.00 refinance loan to Borrower Lopez to be secured by
24 a lien against, the Collins Avenue property, submitted or caused to be submitted to said lender a
25 "Uniform Residential Loan Application" (hereinafter "the loan application") containing
26 representations that Borrower Lopez earned a monthly income of \$3,986.00.

27 ///

1 62

2 Within the three years prior to the filing of this Accusation, Long Beach
3 Mortgage, as lender, in reliance upon the representations of Respondent AGUAYO as described
4 in Paragraph 61, inclusive, above, approved and funded the \$168,000.00 loan for the refinance
5 of the Collins Avenue property by Borrower Lopez.

6 63

7 Respondent's representations as described in Paragraph 61, above, were false or
8 misleading and were known by Respondent AGUAYO to be false or misleading when made or
9 were made by Respondent AGUAYO with no reasonable grounds for believing said
10 representations to be true. In truth and in fact: Borrower Lopez was unemployed.

11 64

12 Had lender Long Beach Mortgage known the true facts, it would not have
13 approved and funded the loan to refinance the Collins Avenue property.

14 65

15 Respondent AGUAYO's acts and omissions as described in Paragraphs 55
16 through 63, inclusive, above, constituted fraud and dishonest dealing.

17 66

18 The facts alleged in Paragraphs 54 through 63, inclusive, above, are grounds for
19 the suspension or revocation of the licenses or license rights of Respondent AGUAYO under
20 Sections 10176(a), 10176(b), 10176(i), 10177(f), 10177(g), 10177(j) and 10177(k) of the Code.

21 SIXTH CAUSE OF ACTION

22 67

23 There is hereby incorporated in this Sixth, separate and distinct, Cause of Action,
24 all of the allegations contained in Paragraphs 1 through 66, inclusive, of the Accusation with the
25 same force and effect as if herein fully set forth.

26 ///

27 ///

1 68

2 On or about May 10, 2007, Respondent AGUAYO obtained Borrower Lopez
3 signature on a deed of trust to secure the refinance loan for the Collins Avenue property.

4 69

5 At no time was a duly commissioned notary public present when Borrower Lira
6 executed the deed of trust to secure the purchase loan for the purchase of the Collins Avenue
7 property.

8 70

9 On or about May 10, 2007, when Borrower Lopez signed the deed of trust to
10 secure the refinance loan for the Collins Avenue property, Respondent AGUAYO affixed and/or
11 arranged to have affixed to the deed of trust the notarial seal and the printed notarial
12 acknowledgement of Valerie Diana Valdez, a notary public under a commission issued by the
13 California Secretary of State, Commission No. 1640014, and personally obtained and entered
14 into the notary's logbook the signature, date of signing, and thumbprint of Borrower Lopez.

15 71

16 Valerie Diana Valdez was not present when Borrower Lopez signed the deed of
17 trust, signed the notary's logbook, and when Borrower Lopez entered his thumbprint into the
18 notary's logbook.

19 72

20 Within three years prior to the filing of this Accusation, Respondent AGUAYO,
21 in order to induce Long Beach Mortgage, as lender, to approve and fund the refinance loan for
22 the Collins Avenue property, submitted to or caused to be submitted to said lender the deed of
23 trust executed by Borrower Lopez, and thereby represented to said lender that said deed of trust
24 had been duly and properly witnessed and acknowledged by a duly commissioned notary public,
25 Valerie Diana Valdez, in accordance with Government Code Section 27282 and that the deed of
26 trust was validly qualified for purposes of recordation to impart constructive notice that the loan
27 was secured by a lien against the Collins Avenue property.

Respondent's representations as described in Paragraph 72, above, were false or misleading and were known by Respondent AGUAYO to be false or misleading when made or were made by Respondent AGUAYO with no reasonable grounds for believing said representations to be true. In truth and in fact, Respondent AGUAYO knew that: the deed of trust had not been validly acknowledged in accordance with California law and was not valid for purposes of recordation; Respondent AGUAYO had obtained the signature of Borrower Lopez outside the presence of a notary public; Respondent AGUAYO, not Valerie Diana Valdez, had obtained and entered into the notary's logbook the signature, date of signing, and thumbprint of Borrower Lopez; and that neither Valerie Diana Valdez nor any other duly commissioned notary public had witnessed the signing of the deed of trust by Borrower Lopez.

Within the three years prior to the filing of this Accusation, Long Beach Mortgage, in reliance upon the representation that the signature of Borrower Lopez on the deed of trust was validly acknowledged by a notary public and suitable for recordation, approved and funded the refinance loan for the Collins Avenue property by Borrower Lopez.

Respondent AGUAYO failed to disclose to the lender, Long Beach Mortgage, the true facts that: the deed of trust had not been validly acknowledged in accordance with California law and was not valid for purposes of recordation; Respondent AGUAYO had obtained the signature of Borrower Lopez outside the presence of a notary public; Respondent AGUAYO, not Valerie Diana Valdez, had obtained and entered into the notary's logbook the signature, date of signing, and thumbprint of Borrower Lopez; and that neither Valerie Diana Valdez nor any other duly commissioned notary public had witnessed the signing of the deed of trust by Borrower Lopez.

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1 76

2 Had lender Long Beach Mortgage, known the true facts, it would not have
3 accepted the deed of trust and would not have approved or funded the refinance loan for the
4 Collins Avenue property by Borrower Lopez.

5 77

6 Respondent AGUAYO's acts and omissions as described in Paragraphs 68
7 through 75, inclusive, above, constituted fraud and dishonest dealing.

8 78

9 The facts alleged in Paragraphs 68 through 75, inclusive, above, are grounds for
10 the suspension or revocation of the licenses or license rights of Respondent AGUAYO under
11 Sections 10176(a), 10176(b), 10176(i), 10177(f), 10177(g), 10177(j) and 10177(k) of the Code.

12 SEVENTH CAUSE OF ACTION

13 79

14 There is hereby incorporated in this Seventh, separate and distinct, Cause of
15 Action, all of the allegations contained in Paragraphs 1 through 11, inclusive, of the Accusation
16 with the same force and effect as if herein fully set forth.

17 80

18 On or about October 10, 2007, the Department notified Respondent AGUAYO
19 that the broker license of Respondent CORTEZ was suspended pursuant to Section 11350.6 of
20 the Welfare and Institutions Code, that she was no longer in the employ of Respondent
21 CORTEZ, and that prior to engaging in further licensed activities she must submit to the
22 Department a Change Application signed by a properly licensed real estate broker.

23 81

24 Beginning on or about October 10, 2007, Respondent AGUAYO engaged in the
25 business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within
26 the State of California within the meaning of Section 10131(a) of the Code, including the
27 operation of and conduct of a real property sales brokerage business with the public wherein

1 Respondent AGUAYO sold or offered to sell, bought or offered to buy, solicited prospective
2 sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or
3 exchange of real property or a business opportunity on behalf of another or others for
4 compensation or in expectation of compensation.

5 82

6 At no time between October 10, 2007, and December 5, 2007, was Respondent
7 AGUAYO employed under the license of a real estate broker.

8 83

9 For or in expectation of compensation, on or about November 12, 2007,
10 Respondent AGUAYO submitted to Rick Gross, as seller, a RESIDENTIAL PURCHASE
11 AGREEMENT AND JOINT ESCROW INSTRUCTIONS (hereinafter "the agreement") on
12 behalf of Jose de Jesus Salazar, as buyer, to purchase the real property located at 4030 E. Liberty
13 Avenue in Fresno, California (hereinafter "Liberty Avenue property").

14 84

15 On or about November 27, 2007, pursuant to counteroffers presented and/or
16 received by Respondent AGUAYO, the Sellers signed the agreement accepting the offer on the
17 Liberty Avenue property.

18 85

19 Beginning on or about January 18, 2008, Respondent AGUAYO engaged in the
20 business of, acted in the capacity of, advertised, or assumed to act as a real estate broker within
21 the State of California within the meaning of Section 10131(d) of the Code, including the
22 operation of and conduct of a mortgage loan brokerage business with the public wherein
23 Respondent AGUAYO solicited lenders and borrowers for or negotiated loans to be secured
24 directly or collaterally by liens on real property or a business opportunity, or collected payments
25 or performed services for borrowers or lenders or note owners in connection with loans to be
26 secured directly or collaterally by liens on real property or a business opportunity on behalf of
27 another or others for compensation or in expectation of compensation.

1 86

2 At no time between January 18, 2008, and January 22, 2008, was Respondent
3 AGUAYO employed under the license of a real estate broker.

4 87

5 For or in expectation of compensation, on or about January 18, 2008, Respondent
6 AGUAYO obtained from Jose de Jesus Salazar, as borrower, a "Uniform Residential Loan
7 Application" to obtain a \$170,050.00 loan to purchase and to be secured by a lien against the
8 Liberty Avenue property.

9 88

10 On January 22, 2008, as a holder of a restricted conditional salesperson license,
11 Respondent AGUAYO was employed as a licensed salesperson under the broker license of
12 Respondent MEDINA.

13 89

14 Within the three years prior to the filing of this Accusation, Respondent
15 CAMINO engaged in the business of, acted in the capacity of, advertised, or assumed to act as a
16 real estate broker within the State of California within the meaning of Section 10131(a) of the
17 Code, including the operation of and conduct of a real property sales brokerage business with
18 the public wherein Respondent CAMINO sold or offered to sell, bought or offered to buy,
19 solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the
20 purchase, sale or exchange of real property or a business opportunity on behalf of another or
21 others for compensation or in expectation of compensation.

22 90

23 At no time herein mentioned was Respondent AGUAYO licensed to be
24 employed under the corporate real estate broker license of Respondent CAMINO.

25 91

26 Within the three year period prior to the filing of this Accusation, during the
27 period from on or about January 22, 2008, and continuing through on or about March 12, 2008,

1 Respondent CAMINO employed and/or compensated Respondent AGUAYO to perform the
2 activities requiring a real estate license as alleged in Paragraph 89, above.

3 92

4 Between on or about January 22, 2008, and continuing through on or about
5 March 12, 2008, in the course of the employment and activities described in Paragraphs 89 and
6 91, above, Respondent AGUAYO sold or offered to sell, bought or offered to buy, solicited
7 prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase,
8 sale or exchange of real property or a business opportunity on behalf of another or others for
9 compensation or in expectation of compensation, including, but not limited to, the following:

10 1.) Real Property: 4030 E. Liberty Avenue, Fresno, California.

11 Purchaser: Jose de Jesus Salazar.

12 Seller: Rick Gross.

13 Contract Date: 11/27/07.

14 Purpose of Property: Purchaser's primary residence.

15 Purchase price: \$179,000.00.

16 Close Date: 3/12/08

17 93

18 Within the three years prior to the filing of this Accusation, Respondent SANTA
19 FE engaged in the business of, acted in the capacity of, advertised, or assumed to act as a real
20 estate broker within the State of California within the meaning of Section 10131(d) of the Code,
21 including the operation of and conduct of a mortgage loan brokerage business with the public
22 wherein Respondent SANTA FE solicited lenders and borrowers for or negotiated loans to be
23 secured directly or collaterally by liens on real property or a business opportunity, or collected
24 payments or performed services for borrowers or lenders or note owners in connection with
25 loans to be secured directly or collaterally by liens on real property or a business opportunity on
26 behalf of another or others for compensation or in expectation of compensation.

27 ///

At no time herein mentioned was Respondent AGUAYO licensed to be employed under the corporate real estate broker license of Respondent SANTA FE.

Within the three year period prior to the filing of this Accusation, during the period from on or about January 22, 2008, and continuing through on or about March 12, 2008, Respondent SANTA FE employed and/or compensated Respondent AGUAYO to perform the activities requiring a real estate license as alleged in Paragraph 93, above.

Between on or about January 22, 2008, and continuing through on or about March 12, 2008, in the course of the employment and activities described in Paragraphs 93 and 95, above, Respondent AGUAYO solicited prospective borrowers and/or lenders for loans secured directly or collaterally by liens on real property and/or arranged, negotiated, processed such loans secured directly or collaterally by liens on real property for or in expectation of compensation, including, but not limited to, the following:

1.) Real Property: 4030 E. Liberty Avenue, Fresno, California.

Borrower/Purchaser: Jose de Jesus Salazar.

Application Date: 1/18/08 and final application 3/6/08.

Purpose of Property: Borrower's primary residence.

Purpose of Loan: Purchase.

Loan Amount: \$170,050.00.

Lender: Courtyard Financial.

Close Date: 3/12/08

The facts alleged in Paragraphs 80 through 96, inclusive, above, constitute cause for the suspension or revocation of the licenses and license rights of Respondents CAMINO, SANTA FE, and AGUAYO under Sections 10130 and 10137 of the Code in conjunction with

1 Section 10177(d) of the Code, and constitute cause for the suspension or revocation of the
2 licenses and license rights of Respondent AGUAYO under Section 10177(f) and 10177(k).

3 EIGHTH CAUSE OF ACTION

4 98

5 There is hereby incorporated in this Eighth, separate and distinct, Cause of
6 Action, all of the allegations contained in Paragraphs 79 through 97, inclusive, of the Seventh
7 Cause of Action of the Accusation with the same force and effect as if herein fully set forth.

8 99

9 At all times above mentioned, Respondent MEDINA was responsible, as the
10 designated broker officer of Respondent CAMINO for the supervision and control of the
11 activities conducted on behalf of the corporation by its officers and employees. Respondent
12 MEDINA failed to exercise reasonable supervision and control over the real property brokering
13 activities of Respondent CAMINO. In particular, Respondent MEDINA permitted, ratified
14 and/or caused the conduct described in the Seventh Cause of Action, above, to occur, and failed
15 to take reasonable steps, including but not limited to the supervision of employees, the
16 employment of licensed salespersons, review of transactions requiring a real estate license, and
17 the implementation of policies, rules, procedures, and systems to ensure the compliance of the
18 corporation with the Real Estate Law.

19 100

20 The above acts and/or omissions of Respondent MEDINA constitute grounds for
21 the suspension or revocation of the licenses and license rights of Respondent MEDINA under
22 the provisions of Section 10177(h) of the Code and/or Section 10159.2 of the Code and Section
23 2725 of the Regulations in conjunction with Section 10177(d) of the Code.

24 ///

25 ///

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27 ///

1 NINTH CAUSE OF ACTION

2 101

3 There is hereby incorporated in this Ninth, separate and distinct, Cause of Action,
4 all of the allegations contained in Paragraphs 79 through 97, inclusive, of the Seventh Cause of
5 Action of the Accusation with the same force and effect as if herein fully set forth.

6 102

7 At all times above mentioned, Respondent MEDINA was responsible, as the
8 designated broker officer of Respondent SANTA FE for the supervision and control of the
9 activities conducted on behalf of the corporation by its officers and employees. Respondent
10 MEDINA failed to exercise reasonable supervision and control over the real property brokering
11 activities of Respondent SANTA FE. In particular, Respondent MEDINA permitted, ratified
12 and/or caused the conduct described in the Seventh Cause of Action, above, to occur, and failed
13 to take reasonable steps, including but not limited to the supervision of employees, the
14 employment of licensed salespersons, review of transactions requiring a real estate license, and
15 the implementation of policies, rules, procedures, and systems to ensure the compliance of the
16 corporation with the Real Estate Law.

17 103

18 The above acts and/or omissions of Respondent MEDINA constitute grounds for
19 the suspension or revocation of the licenses and license rights of Respondent MEDINA under
20 the provisions of Section 10177(h) of the Code and/or Section 10159.2 of the Code and Section
21 2725 of the Regulations in conjunction with Section 10177(d) of the Code.

22 MATTERS IN AGGRAVATION

23 104

24 On or about November 10, 1993, in the Superior Court, County of Fresno, State
25 of California, Respondent was convicted of violating Section 10980 of the California Welfare
26 and Institutions Code (Willful and knowing making of false statements or fails to disclose
27 material facts to obtain aid he or she is not entitled thereto) and Section 11483 of the California

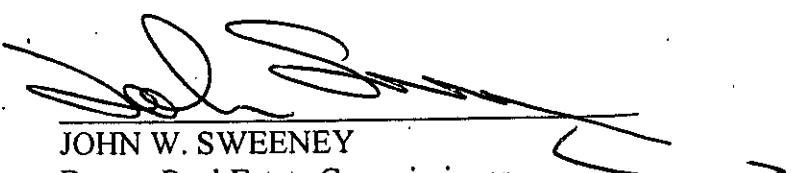
1 Welfare and Institutions Code (By means of false statement or representation, impersonation or
2 fraudulent device, obtains aid for child not entitled thereto), felonies and crimes involving moral
3 turpitude which bear a substantial relationship under Section 2910 of Chapter 6, Title 10,
4 California Code of Regulations, to the qualifications, functions or duties of a real estate
5 licensee.

6 PRIOR PROCEEDING

7 105

8 Effective January 11, 2007, in Case No. H-2003 FR, before the California
9 Department of Real Estate, pursuant to Stipulation and Waiver, the application of Respondent
10 for a conditional real estate license, filed December 20, 2004, was denied with a right to a
11 restricted conditional real estate salesperson license for a violation of Section 480(a) and Section
12 10177(b) of the Code by reason of the conviction set forth in Paragraph 105, above.

13 WHEREFORE, Complainant prays that a hearing be conducted on the
14 allegations of this Accusation and that upon proof thereof a decision be rendered imposing
15 disciplinary action against all licenses and license rights of Respondents under the Real Estate
16 Law (Part 1 of Division 4 of the Business and Professions Code), and for such other and further
17 relief as may be proper under other provisions of law.

18
19
20
21 
22 JOHN W. SWEENEY
23 Deputy Real Estate Commissioner

24
25 Dated at Fresno, California,
26 this 21st day of January, 2009.
27