

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0789

FILED

APR - 5 2010

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 MESTIZO INVESTMENTS, INC.,)
14 a CORPORATION,)
15 ISIDRO DE LA TORRE, and)
16 SANDRA PEREZ,)
Respondents.)

NO. H-2399 FR

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

(As to MESTIZO INVESTMENTS, INC.,
and ISIDRO DE LA TORRE, Only)

17
18 It is hereby stipulated by and between Respondents MESTIZO INVESTMENTS
19 INC. (herein "MII"), and ISIDRO DE LA TORRE (herein "DE LA TORRE") (herein jointly
20 "Respondents"), individually and jointly and the Complainant, acting by and through Mary F.
21 Clarke, Counsel for the Department of Real Estate (herein "the Department"), as follows for the
22 purpose of settling and disposing of the Accusation filed on June 19, 2009 in this matter:

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

1 2. Respondents have received, read and understand the Statement to Respondent,
2 the Discovery Provisions of the APA, and the Accusation filed by the Department in this
3 proceeding.

4 3. Notices of Defense were filed on June 30, 2009 by Respondents, pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
6 in the Accusation. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
7 Respondents acknowledge that they understand that by withdrawing said Notices of Defense they
8 will thereby waive their right to require the Commissioner to prove the allegations in the
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that
10 they will waive other rights afforded to them in connection with the hearing such as the right to
11 present evidence in defense of the allegations in the Accusation and the right to cross-examine
12 witnesses.

13 4. Respondents, pursuant to the limitations set forth below, hereby admit that the
14 factual allegations pertaining to them in the Accusation filed in this proceeding are true and
15 correct and the Real Estate Commissioner shall not be required to provide further evidence of
16 such allegations.

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

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

1 7. Respondents understand that by agreeing to this Stipulation and Agreement in
2 Settlement, Respondents jointly and severally agree to pay, pursuant to Section 10148 of the
3 Business and Professions Code ("herein the Code"), the cost of the audit which resulted in the
4 determination that Respondents committed the trust fund violation(s) found in Paragraph I,
5 below, of the Determination of Issues. The amount of said costs is \$3,588.50.

6 8. Respondents further understand that by agreeing to this Stipulation and
7 Agreement in Settlement, the findings set forth below in the Determination of Issues become
8 final, and that the Commissioner may charge said Respondents, jointly and severally, for the
9 costs of any audit conducted pursuant to Section 10148 of the Code to determine if the trust fund
10 violation(s) found in Paragraph I, below, of the Determination of Issues have been corrected. The
11 maximum costs of said audit shall not exceed \$3,588.50.

12 DETERMINATION OF ISSUES

13 I

14
15 The acts and omissions of Respondents as described in the Accusation are
16 grounds for the suspension or revocation of the licenses and license rights of Respondents under
17 the following provisions of the Code, and/or Chapter 6, Title 10, California Code of Regulations
18 (herein "the Regulations"):

- 19 (a) as to Paragraph 9(a) and Respondent MII under Section 10177(g) and/or (j) of the
20 Code and Section 2831 of the Regulations in conjunction with Section 10177(d)
21 of the Code;
- 22 (b) as to Paragraph 9(b) and Respondent MII under Section 10177(g) and/or (j) of the
23 Code and Section 2831.1 of the Regulations in conjunction with Section 10177(d)
24 of the Code;
- 25 (c) as to Paragraph 9(c) and Respondent MII under Section 10177(g) and/or (j) of the
26 Code and Section 2831.2 of the Regulations in conjunction with Section 10177(d)
27 of the Code;

- 1 (d) as to Paragraph 9(d) and Respondent MII under Sections 10145 and 10177(g)
2 and/or (j) of the Code and Section 2832 of the Regulations in conjunction with
3 Section 10177(d) of the Code;
- 4 (e) as to Paragraph 9(e) and Respondent MII under Section 10176(e) of the Code and
5 Section 2835 of the Regulations in conjunction with Section 10177(d) of the Code;
- 6 (f) as to Paragraph 10 and Respondent MII under Sections 10159.5 and 10177(g) of
7 the Code and Section 2731 of the Regulations in conjunction with Section
8 10177(d) of the Code;
- 9 (g) as to Paragraph 11 and Respondent MII under Sections 10163 and 10177(g) of the
10 Code in conjunction with Section 10177(d) of the Code;
- 11 (h) as to Paragraph 12 and Respondent MII under Sections 10240 and 10177(g) of the
12 Code in conjunction with Section 10177(d) of the Code;
- 13 (i) as to Paragraph 14 and Respondent MII under Sections 10130, 10137 and
14 10177(g) of the Code in conjunction with Section 10177(d) of the Code; and
- 15 (j) as to Paragraph 17 and Respondent DE LA TORRE under Sections 10177(g)
16 and (h) and 10159.2 of the Code in conjunction with Section 10177(d) of the
17 Code.

18 ORDER

19 I

20
21 All licenses and licensing rights of Respondent MII under the Real Estate Law are
22 suspended for a period of ninety (90) days from the effective date of this Order; provided,
23 however, that:

24 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon the
25 following terms and conditions:

26 (a) Respondent MII shall obey all laws, rules and regulations governing the
27 rights, duties and responsibilities of a real estate licensee in the State of California; and,

1 (b) That no final subsequent determination be made, after hearing or upon
2 stipulation, that cause for disciplinary action occurred within two (2) years from the effective
3 date of this Order. Should such a determination be made, the Commissioner may, in his
4 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
5 suspension. Should no such determination be made, the stay imposed herein shall become
6 permanent.

7 2. The remaining thirty (30) days of said 90-day suspension shall be stayed upon
8 the condition that Respondent MII petitions pursuant to Section 10175.2 of the Code and pays a
9 monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50.00 for each day of the
10 suspension for a total monetary penalty of \$1,500.00:

11 (a) Said payment shall be in the form of a cashier's check or certified check
12 made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered
13 to the Department prior to the effective date of the Order in this matter.

14 (b) No further cause for disciplinary action against the real estate licenses of
15 Respondent MII occurs within two (2) years from the effective date of the Decision in this
16 matter.

17 (c) If Respondent MII fails to pay the monetary penalty as provided above
18 prior to the effective date of this Order, the stay of the suspension shall be vacated as to
19 Respondent MII and the order of suspension shall be immediately executed, under this
20 Paragraph I of this Order, in which event Respondent MII shall not be entitled to any repayment
21 nor credit, prorated or otherwise, for the money paid to the Department under the terms of this
22 Order.

23 (d) If Respondent MII pays the monetary penalty and any other moneys due
24 under this Stipulation and Agreement in Settlement and if no further cause for disciplinary
25 action against the real estate license of Respondent MII occurs within two (2) years from the
26 effective date of this Order, the entire stay hereby granted under Paragraphs I and II of this
27 Order, as to Respondent MII only, shall become permanent.

1 3. Pursuant to Section 10148 of the Code, Respondent MII, shall, jointly and
2 severally with Respondent DE LA TORRE pay the sum of \$3,588.50 for the Commissioner's
3 cost of the audit which led to this disciplinary action. Respondents shall pay such cost within 60
4 days of receiving an invoice therefor from the Commissioner. The Commissioner may
5 indefinitely suspend all licenses and licensing rights pending a hearing held in accordance with
6 Section 11500, et seq., of the Government Code, if payment is not timely made as provided for
7 herein, or as provided for in a subsequent agreement between Respondent MII and the
8 Commissioner. The suspension shall remain in effect until payment is made in full or until
9 Respondent MII enters into an agreement satisfactory to the Commissioner to provide for
10 payment, or until a decision providing otherwise is adopted following a hearing held pursuant to
11 this condition.

12 4. Respondents MII and DE LA TORRE, jointly and severally, shall pay the
13 Commissioner's costs, not to exceed \$3,588.50, of any audit conducted pursuant to Section 10148
14 of the Code to determine if Respondents have corrected the violations described in Paragraph I of
15 the Determination of Issues, above. In calculating the amount of the Commissioner's reasonable
16 cost, the Commissioner may use the estimated average hourly salary for all persons performing
17 audits of real estate brokers, and shall include an allocation for travel time to and from the
18 auditor's place of work. Respondents shall pay such cost within 60 days of receiving an invoice
19 therefore from the Commissioner detailing the activities performed during the audit and the
20 amount of time spent performing those activities. If Respondents fail to pay such cost within the
21 60 days, the Commissioner may indefinitely suspend all licenses and licensing rights of
22 Respondent MII under the Real Estate Law until payment is made in full or until Respondent MII
23 enters into an agreement satisfactory to the Commissioner to provide for payment. Upon
24 payment in full, the indefinite suspension provided in this paragraph shall be stayed.

25 II

26 A. All licenses and licensing rights of Respondent DE LA TORRE under the
27 Real Estate Law are suspended until such time as Respondent provides proof satisfactory to the

1 Commissioner that Respondent has, no earlier than within one hundred twenty (120) days prior
2 to the effective date of the Decision herein, completed the continuing education course on trust
3 fund accounting and handling specified in subdivision (a) of Section 10170.5 of the Code.

4 B. All licenses and licensing rights of Respondent DE LA TORRE under the
5 Real Estate Law are suspended for a period of ninety (90) days from the effective date of this
6 Order; provided, however, that:

7 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon
8 the following terms and conditions:

9 a. Respondent DE LA TORRE shall obey all laws, rules and
10 regulations governing the rights, duties and responsibilities of a real estate licensee in the
11 State of California; and,

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

18 2. The remaining thirty (30) days of said 90-day suspension shall be stayed
19 upon the condition that Respondent DE LA TORRE petitions pursuant to Section 10175.2 of the
20 Code and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$50.00
21 for each day of the suspension for a total monetary penalty of \$1,500.00:

22 a. Said payment shall be in the form of a cashier's check or certified
23 check made payable to the Recovery Account of the Real Estate Fund. Said check must be
24 delivered to the Department prior to the effective date of the Order in this matter.

25 b. No further cause for disciplinary action against the real estate
26 licenses of Respondent DE LA TORRE occurs within two (2) years from the effective date of
27 the Decision in this matter.

1 c. If Respondent DE LA TORRE fails to pay the monetary penalty
2 as provided above prior to the effective date of this Order, the stay of the suspension shall be
3 vacated as to Respondent DE LA TORRE and the order of suspension shall be immediately
4 executed, under this Paragraph II of this Order, in which event Respondent DE LA TORRE
5 shall not be entitled to any repayment nor credit, prorated or otherwise, for the money paid to
6 the Department under the terms of this Order.

7 d. If Respondent DE LA TORRE pays the monetary penalty and any
8 other moneys due under this Stipulation and Agreement in Settlement and if no further cause
9 for disciplinary action against the real estate license of Respondent DE LA TORRE occurs
10 within two (2) years from the effective date of this Order, the entire stay hereby granted under
11 Paragraphs I and II of this Order, as to Respondent DE LA TORRE only, shall become
12 permanent.

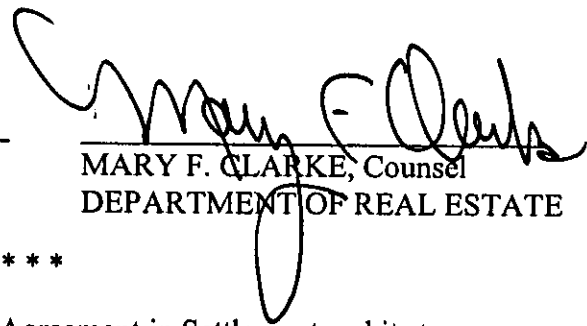
13 3. Pursuant to Section 10148 of the Code, Respondents DE LA TORRE and
14 MII shall, jointly and severally, pay the sum of \$3,588.50 for the Commissioner's cost of the
15 audit which led to this disciplinary action. Respondents shall pay such cost within 60 days of
16 receiving an invoice therefor from the Commissioner. The Commissioner may indefinitely
17 suspend all licenses and licensing rights pending a hearing held in accordance with Section
18 11500, et seq., of the Government Code, if payment is not timely made as provided for herein,
19 or as provided for in a subsequent agreement between Respondent DE LA TORRE and the
20 Commissioner. The suspension shall remain in effect until payment is made in full or until
21 Respondent DE LA TORRE enters into an agreement satisfactory to the Commissioner to
22 provide for payment, or until a decision providing otherwise is adopted following a hearing held
23 pursuant to this condition.

24 4. Respondents DE LA TORRE and MII, jointly and severally, shall pay
25 the Commissioner's costs, not to exceed \$3,588.50, of any audit conducted pursuant to Section
26 10148 of the Code to determine if Respondents have corrected the violations described in
27 Paragraph I of the Determination of Issues, above. In calculating the amount of the

1 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
2 for all persons performing audits of real estate brokers, and shall include an allocation for travel
3 time to and from the auditor's place of work. Respondents shall pay such cost within 60 days of
4 receiving an invoice therefore from the Commissioner detailing the activities performed during
5 the audit and the amount of time spent performing those activities. If Respondents fail to pay
6 such cost within the 60 days, the Commissioner may indefinitely suspend all licenses and
7 licensing rights of Respondent DE LA TORRE under the Real Estate Law until payment is made
8 in full or until Respondent DE LA TORRE enters into an agreement satisfactory to the
9 Commissioner to provide for payment. Upon payment in full, the indefinite suspension provided
10 in this paragraph shall be stayed.

11
12 1-21-10

13 _____
DATED

14 
MARY F. CLARKE, Counsel
DEPARTMENT OF REAL ESTATE

15 * * *

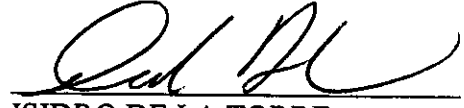
16 I have read the Stipulation and Agreement in Settlement and its terms are
17 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights
18 given to me by the California APA (including but not limited to Sections 11506, 11508, 11509,
19 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those
20 rights, including the right of requiring the Commissioner to prove the allegations in the
21 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
22 and to present evidence in defense and mitigation of the charges.

23 MESTIZO INVESTMENTS, INC.
24 Respondent

25 1/15/10

26 _____
DATED

27 By:


ISIDRO DE LA TORRE
Designated Officer - Broker

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1/15/10

DATED



ISIDRO DE LA TORRE
Respondent

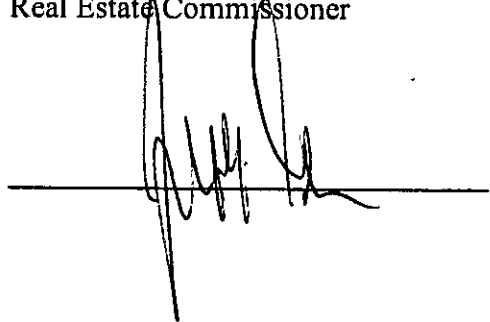
The foregoing Stipulation and Agreement in Settlement and Order is hereby
adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
April 26, 2010.

IT IS SO ORDERED

3/29

, 2010.

JEFF DAVI
Real Estate Commissioner



FILED

MAR 16 2010

DEPARTMENT OF REAL ESTATE

By D. Contreras

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
 MESTIZO INVESTMENTS, INC.,)
 a Corporation,)
 ISIDRO DE LA TORRE, and,)
 SANDRA PEREZ,)
)
 Respondents.)

NO. H-2399 FR
(As to Sandra Perez Only)

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 February 10, 2010. The Findings of Fact set forth herein are based on one or more of the following: (1) Respondent SANDRA PEREZ' (herein "Respondent PEREZ) express admissions; (2) affidavits; and/or, (3) other evidence.

This Decision revokes a real estate license on grounds that Respondent PEREZ performed licensed activities while not in the employ of a broker and misrepresentation as a "realtor."

The right to reinstatement of a revoked real estate license 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.

FINDINGS OF FACT

1

On June 19, 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 form for the Notice of Defense were mailed, by certified and regular mail to Respondent at her last known mailing address on file with the Department on June 19, 2009.

On February 10, 2010, no Notice of Defense having been filed within the time prescribed by Section 11506 of the Government Code, Respondent PEREZ' default was entered herein.

2

Respondent PEREZ was licensed and/or had license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (herein the "Code") as a real estate salesperson and was not affiliated with any broker between about April 16, 2007 and June 17, 2007. Respondent PEREZ was employed by MESTIZO INVESTMENTS, INC. (herein "MII") from about June 18, 2007 to May 7, 2008. Said license expired on August 1, 2009.

3

On about May 21, 2007, Respondent PEREZ, entered into a Property Management Agreement with Carmen Ramirez (herein "Ramirez") in connection with Ramirez' real property located at 2580 Jackson, Selma, CA 93662, during the time Respondent PEREZ was not affiliated with any broker and prior to being licensed with Respondent MII, in violation of Section 10130 of the Code.

4

Between about May 21, 2007 and June 17, 2007, Respondent PEREZ performed activities requiring a real estate license and was employed by and accepted compensation from MII, with whom she was not licensed at the time, as set out in Paragraph 2, above, in violation of Sections 10130 and 10137 of the Code.

5

Between about February 13, 2008 and March 17, 2008, Respondent PEREZ represented herself as a "Realtor" when in fact her "Realtor" status had lapsed on about January 1, 2008, in violation of Sections 10176(a) and (i), and 10177(e), (g) and/or (j) of the Code.

DETERMINATION OF ISSUES

1

The facts found above constitute cause for discipline under Sections 10130, 10137, 10176(a) and (i), and 10177(e), (g) and/or (j) of the Code for suspension or revocation of the real estate license and license rights of Respondent PEREZ under the Real Estate Law.

2

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

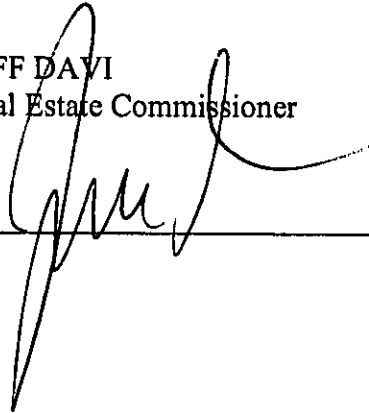
ORDER

The real estate license and license rights of Respondent SANDRA PEREZ under the provisions of Part I of Division 4 of the Business and Professions Code are hereby revoked.

This Decision shall become effective at 12 o'clock noon on April 5, 2010.

DATED: 3/10, 2010.

JEFF DAVI
Real Estate Commissioner



A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized and cursive.

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

4 Telephone: (916) 227-0789

FILED

FEB 10 2010

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12)
13 MESTIZO INVESTMENTS, INC.,)
14 a Corporation,)
15 ISIDRO DE LA TORRE, and,)
16 SANDRA PEREZ,)
Respondents.)

NO. H-2399 FR

DEFAULT ORDER
(As to Sandra Perez Only)

17 Respondent, SANDRA PEREZ, having failed to file a Notice of Defense within
18 the time required by Section 11506 of the Government Code, is now in default. It is, therefore,
19 ordered that a default be entered on the record in this matter as to SANDRA PEREZ only.

20
21 IT IS SO ORDERED February 10, 2010.

22 JEFF DAVI
23 Real Estate Commissioner

24
25 By:

Charles W. Koenig
26 CHARLES W. KOENIG
27 Regional Manager

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

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

FILED

JUN 19 2009

DEPARTMENT OF REAL ESTATE

By R. Henry

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

11 * * *

12 In the Matter of the Accusation of)
13)
14 MESTIZO INVESTMENTS, INC.,) NO. H-2399 FR
15 A Corporation,)
16 ISIDRO DE LA TORRE, and,) ACCUSATION
SANDRA PEREZ,)
Respondents.)

17 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner
18 of the State of California, for cause of Accusation against Respondents MESTIZO
19 INVESTMENTS, INC. (herein "MII"), dba HPS Real Estate and Mortgage Lending and All
20 State Homes Fresno, ISIDRO DE LA TORRE (herein "DE LA TORRE)", and SANDRA
21 PEREZ (herein "PEREZ") (collectively "Respondents"), is informed and alleges as follows:

22 1

23 The Complainant makes this Accusation in his official capacity.

24 2

25 At all times herein mentioned, Respondents were and now are licensed and/or
26 have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and
27 Professions Code) (herein "the Code").

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At all times herein mentioned, MII was and now is licensed by the State of California Department of Real Estate (herein "the Department") as a corporate real estate broker by and through DE LA TORRE as designated officer-broker of MII to qualify said corporation and to act for said corporation as a real estate broker.

4

At all times herein mentioned, DE LA TORRE was and now is licensed by the Department as a real estate broker, individually and as designated officer-broker of MII. As said designated officer-broker, DE LA TORRE was at all times mentioned herein responsible pursuant to Section 10159.2 of the Code for the supervision of the activities of the officers, agents, real estate licensees, and employees of MII for which a license is required.

5

At all times herein mentioned, PEREZ was and now is licensed by the Department as a real estate salesperson and not affiliated with any broker between about April 16, 2007 and June 17, 2007 and was in the employ of MII from June 18, 2007 to May 7, 2008.

6

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

7

At all times herein mentioned, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act as real estate brokers and/or salespersons for compensation or in expectation of compensation within the State of California within the meaning of:

1 (a) Section 10131(b) of the Code, including the operation and conduct of a
2 property management business with the public wherein, on behalf of
3 others, Respondents leased or rented or offered to lease or rent, or placed
4 for rent, or solicited listings or places for rent, or solicited for
5 prospective tenants, or negotiated the sale, purchase or exchanges of
6 leases on real property or on a business opportunity, or collected rents
7 from real property, or improvements thereon, or from business
8 opportunities; and,

9 (b) Section 10131(d) of the Code, including the operation and conduct of a
10 mortgage loan brokerage with the public wherein, on behalf of others,
11 Respondents MII and DE LA TORRE solicited borrowers or lenders for
12 or negotiated loans or collected payments or performed services for
13 borrowers or lenders or note owners in connection with loans secured
14 directly or collaterally by liens on real property or on a business
15 opportunity.

16 8

17 The aforesaid trust funds accepted or received by Respondents were deposited or
18 caused to be deposited by Respondents into one or more bank accounts (herein "trust fund
19 accounts") maintained by Respondents for the handling of trust funds at the following branches
20 in Los Angeles, California:

21 (a) Union Bank of California, "Mestizo Investments, Inc. HSP Real
22 Estate and Mortgage Lending," account #8181540660 (herein "Bank
23 #1"); and,

24 (b) Union Bank of California, "Mestizo Investments, Inc. HSP Real
25 Estate and Mortgage Lending," account #8180322699 (herein
26 "Bank #2").
27

1
2 Between about January 1, 2007 and September 1, 2008, , in connection with the
3 property management business and trust fund handling activities described in Paragraphs 7 and 8,
4 above, Respondent MII:

- 5 (a) failed to keep a columnar record in chronological sequence of all
6 trust funds received and disbursed from Bank #2 containing all the
7 information required by Section 2831 of Chapter 6, Title 10,
8 California Code of Regulations (herein "the Regulations");
- 9 (b) failed to keep a separate record for each beneficiary or transaction
10 for Bank #2 containing all the information required by Section
11 2831.1 of the Regulations;
- 12 (c) failed to reconcile at least once a month, the balance of all separate
13 beneficiary or transaction records with Bank #2, as required by
14 Section 2831.2 of the Regulations;
- 15 (d) failed to place trust funds entrusted to Respondent into the hands of
16 a principal on whose behalf the funds were received, into a neutral
17 escrow depository, or into a trust fund account in the name of
18 Respondent as trustee at a bank or other financial institution, in
19 conformance with the requirements of Section 10145 of the Code
20 and Section 2832 of the Regulations; and,
- 21 (e) caused, suffered or permitted funds of others which was received
22 and held by Respondent in Bank #2 to be commingled with
23 Respondent's own money, in violation of Section 10176(e) of the
24 Code and Section 2835 of the Regulations.

25
26 Between about June 15, 2007 and July 21, 2008, Respondent MII failed to
27 obtain a real estate license bearing the fictitious businesses name "HPS Real Estate and

1 Mortgage Lending' and "All State Home Loans," while conducting activities for which a
2 license was required, in violation of Section 10159.5 of the Code and Section 2731 of the
3 Regulations.

4 11

5 Between about May 21, 2007 and March 1, 2008, Respondent MII performed
6 activities requiring a real estate license at 1958 High Street, Selma, CA, a location other than its
7 primary place of business without first procuring a branch office license, in violation of Section
8 10163 of the Code.

9 12

10 Between about October 23, 2007 and November 28, 2007, Respondent MII failed
11 to provide Mortgage Loan Disclosure Statements in connection with the Hernandez loan
12 (#146213855), the Thornburg loan (#147022842), the Yescas loan (#144859014), and the Lujan
13 loan (#147034516), in violation of Section 10240 of the Code.

14 13

15 On about May 21, 2007, Respondent PEREZ, entered into a Property
16 Management Agreement with Carmen Ramirez (herein "Ramirez") in connection with Ramirez'
17 real property located at 2580 Jackson, Selma, CA 93662, during the time PEREZ was not
18 affiliated with any broker and prior to being licensed with Respondent MII.

19 14

20 Between about May 21, 2007 and June 17, 2007, Respondent MII employed and
21 compensated PEREZ, as set out in Paragraph 13, above, prior to the time she was licensed with
22 MII, in violation of Sections 10130 and 10137 of the Code.

23 15

24 Between about May 21, 2007 and June 17, 2007, Respondent PEREZ performed
25 activities requiring a real estate license and/or was employed by and accepted compensation from
26 MII, with whom she was not licensed at the time, as set out in Paragraph 13, above, in violation
27 of Sections 10130 and 10137 of the Code.

1
2 Between about February 13, 2008 and March 17, 2008, PEREZ identified herself
3 as a "Realtor" when in fact her "Realtor" status had lapsed on about January 1, 2008, in violation
4 of Section 10177(e) of the Code.

5
6 At all times mentioned herein, Respondent DE LA TORRE failed to exercise
7 reasonable supervision over the acts of Respondent MII and its agents and employees in such a
8 manner as to allow the acts and omissions on the part of MII, described above, to occur in
9 violation of Sections 10159.2 and 10177(g) and (h) of the Code.

10
11 The facts alleged above are grounds for the suspension or revocation of the
12 licenses and license rights of Respondents under the following provisions of the Code and/or the
13 Regulations:

14 (a) as to Paragraph 9(a) and Respondent MII under Section 10177(g) and/or (j)
15 of the Code and Section 2831 of the Regulations in conjunction with Section 10177(d) of the
16 Code;

17 (b) as to Paragraph 9(b) and Respondent MII under Section 10177(g) and/or (j)
18 of the Code and Section 2831.1 of the Regulations in conjunction with Section 10177(d) of the
19 Code;

20 (c) as to Paragraph 9(c) and Respondent MII under Section 10177(g) and/or (j)
21 of the Code and Section 2831.2 of the Regulations in conjunction with Section 10177(d) of the
22 Code;

23 (d) as to Paragraph 9(d) and Respondent MII under Sections 10145 and
24 10177(g) and/or (j) of the Code and Section 2832 of the Regulations in conjunction with
25 Section 10177(d) of the Code;

26 (e) as to Paragraph 9(e) and Respondent MII under Section 10176(e) of the
27 Code and Section 2835 of the Regulations in conjunction with Section 10177(d) of the Code;

1 (f) as to Paragraph 10 and Respondent MII under Sections 10159.5 and
2 10177(g) of the Code and Section 2731 of the Regulations in conjunction with Section 10177(d)
3 of the Code;

4 (g) as to Paragraph 11 and Respondent MII under Sections 10163 and 10177(g)
5 of the Code in conjunction with Section 10177(d) of the Code;

6 (h) as to Paragraph 12 and Respondent MII under Sections 10240 and 10177(g)
7 of the Code in conjunction with Section 10177(d) of the Code;

8 (i) as to Paragraph 14 and Respondent MII under Sections 10130, 10137, and
9 10177(g) of the Code in conjunction with Section 10177(d) of the Code;

10 (j) as to Paragraph 15 and Respondent PEREZ under Sections 10130, 10137,
11 10176(a) and (i), and 10177(g) and/or (j) in conjunction with Section 10177(d) of the Code;

12 (k) as to Paragraph 16 and Respondent PEREZ under Sections 10177(e),
13 10176(a) and (i), and 10177(g) and/or (j) of the Code; and,

14 (l) as to Paragraph 17 and Respondent DE LA TORRE under Sections
15 10177(g) and (h) and 10159.2 of the Code in conjunction with Section 10177(d) of the Code.

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

21
22
23 
24 JOHN W. SWEENEY
25 Deputy Real Estate Commissioner

26 Dated at Fresno, California
27 this 7th day of May, 2009.