1 2	DEPARTMENT OF REAL ESTATE P. O. Box 187000 Sacramento, CA 95818-7000
3	Telephone: (916) 227-0789
4	DEPARTMENT OF REAL ESTATE
5	By Kathleen Contreval
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7	
8	BEFORE THE DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation of)) NO. H-2639 SD
12	MANOLO MISTICA MOLON,)
13	and LLOYD CRUZ EVANGELISTA,) <u>STIPULATION AND AGREEMENT</u>) <u>AS TO MANOLO MISTICA</u>
14	Respondents.) <u>MOLON</u>
15	It is hereby stipulated by and between MANOLO MISTICA
16	MOLON ("Respondent MOLON") and his attorney, Eric Kinder; and the
17	Complainant, acting by and through Larry A. Alamao, Counsel for
18	the Department of Real Estate; as follows, for the purpose of
19	settling and disposing of the Accusation filed on June 8, 2001,
20	in this matter:
21	1. All issues which were to be contested and all
22	evidence which was to be presented by Complainant and Respondent
23	at a formal hearing on the Accusation, which hearing was to be
24	held in accordance with the provisions of the Administrative
25	Procedure Act ("APA"), shall instead and in place thereof be
26	submitted solely on the basis of the provisions of this
27	Stipulation and Agreement.
	FILE NO. H-2639 SD - 1 - MANOLO MISTICA MOLON, only

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

5 3. On June 13, 2001, Respondent MOLON filed a Notice of Defense pursuant to Section 11505 of the Government Code for 6 7 the purpose of requesting a hearing on the allegations in the 8 Accusation. Respondent MOLON hereby freely and voluntarily withdraws said Notice of Defense. Respondent MOLON. 9 10 acknowledges that he understands that by withdrawing said Notice of Defense he will thereby waive his right to require 11 12 the Commissioner to prove the allegations in the Accusation at 13 a contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in 14 15 connection with the hearing such as the right to present 16 evidence in defense of the allegations in the Accusation and 17 the right to cross-examine witnesses.

18 This Stipulation is based on the factual 4. allegations contained in the Accusation alleging violations of 19 20 Section 10177.5 of the Business and Professions Code. In the interests of expedience and economy, Respondent MOLON chooses not 21 22 to contest these allegations, but to remain silent and understands that, as a result thereof, these factual allegations, 23 24 without being admitted or denied, will serve as a prima facie 25 basis for the disciplinary action stipulated to herein. The Real 26 Estate Commissioner shall not be required to provide further 27 evidence to prove said factual allegations.

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It is understood by the parties that the Real 1 5. 2 Estate Commissioner may adopt the Stipulation and Agreement as 3 her Decision in this matter, thereby imposing the penalty and sanctions on Respondent MOLON's real estate licenses and license 4 5 rights as set forth in the below "Order". In the event that the 6 Commissioner in her discretion does not adopt the Stipulation and 7 Agreement, it shall be void and of no effect, and Respondent MOLON shall retain the right to a hearing and proceeding on the 8 9 Accusation under all the provisions of the APA and shall not be 10 bound by any admission or waiver made herein.

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

DETERMINATION OF ISSUES

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

The conduct of Respondent MOLON, as described in the Accusation, is cause for the suspension or revocation of the real estate license and license rights of Respondent MOLON under the provisions of Section 10177.5 of the Business and Professions Code ("Code").

FILE NO. H-2639 SD

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1			ORDER
2	A.	All	licenses and licensing rights of Respondent MANOLO
3		MIS	TICA MOLON under the Real Estate Law are suspended for a
4		per	iod of one hundred and eighty (180) days from the
5		eff	ective date of this Order.
6	в.	One	hundred and eighty (180) days of said suspension are
7		sta	yed for a period of two (2) years upon the following terms
8	÷	and	conditions:
9		1.	Respondent MOLON shall obey all laws, rules and
10			regulations governing the rights, duties and
11			responsibilities of a real estate licensee in the State
12			of California; and,
13		2.	If the Real Estate Commissioner determines that further
14			cause for disciplinary action against Respondent MOLON
15			has occurred within two (2) years from the effective date
16			of the Order, the stay of suspension hereby granted to
17			Respondent MOLON, or such portion of the stay as the Real
18			Estate Commissioner shall deem appropriate, shall be
19			vacated.
20		3.	If no further cause for disciplinary action against the
21			real estate license of Respondent MOLON occurs within
22			two (2) years from the effective date of the Order, the
23			stay hereby granted shall become permanent.
24		4.	Respondents MANOLO MISTICA MOLON and/or LLOYD CRUZ
25			EVANGELISTA shall be jointly and severally liable
26			for the payment of the \$5,000 judgment in DelaCruz v.
27			Molon and Evangelista, San Diego Superior Court Case

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FILE NO. H-2639 SD

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No. SC107942. Such payment shall be made prior to the 1 2 effective date of this Order. If said Respondents fail 3 to satisfy this condition, the Commissioner may order suspension of Respondents' licenses until Respondents 4 5 satisfy said condition. 6 C. Respondent shall, within nine (9) months from the effective 7 date of the Order, take and pass the Professional 8 Responsibility Examination administered by the Department including the payment of the appropriate examination fee. 9 10 If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license 11 12 until Respondent passes the examination. 13 14 107 15 REAL ESTATE MENT. 16 17 18 I have read the Stipulation and Agreement, have 19 discussed it with my counsel, and its terms are understood by 20 me and are agreeable and acceptable to me. I understand that I 21 am waiving rights given to me by the California Administrative 22 Procedure Act (including but not limited to Sections 11506, 23 11508, 11509, and 11513 of the Government Code), and I 24 willingly, intelligently, and voluntarily waive those rights, 25 including the right of requiring the Commissioner to prove the 26 allegations in the Accusation at a hearing at which I would 27

FILE NO. H-2639 SD

have the right to cross-examine witnesses against me and to 1 2 present evidence in defense and mitigation of the charges. 3 4 10/30/01 5 б MISTICA MOLON Respondent 7 8 I have reviewed the Stipulation and Agreement as to 9 form and content and have advised my client accordingly. 10 11 30/0/ 12 for Respondent Attor nev 13 14 15 The foregoing Stipulation and Agreement is hereby 16 adopted by the Real Estate Commissioner as her Decision and 17 Order and shall become effective at 12 o'clock noon on 18 January 9 2002. 19 20 November 29 2001. IT IS SO ORDERED 21 PAULA REDDISH ZINNEMANN 22 Real Estate Commissioner 23 24 25 26 27 MANOLO MISTICA MOLON, only FILE NO. H-2639 SD 6 -

1 2	DEPARTMENT OF REAL ESTATE P. O. Box 187000 Sacramento, CA 95818-7000
з	Telephone: (916) 227-0789
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8	BEFORE THE DEPARTMENT OF REAL ESTATE
و	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation of)
12) NO. H-2639 SD MANOLO MISTICA MOLON,)
13	and LLOYD CRUZ EVANGELISTA,) <u>STIPULATION AND AGREEMENT</u>) AS TO LLOYD CRUZ
14	Respondents.) EVANGELISTA
15	It is hereby stipulated by and between LLOYD CRUZ
16	EVANGELISTA ("Respondent ") and his attorney, Eric Kinder; and
17	the Complainant, acting by and through Larry A. Alamao, Counsel
18	for the Department of Real Estate; as follows, for the purpose of
19	settling and disposing of the Accusation filed on June 8, 2001,
20	in this matter:
21	1. All issues which were to be contested and all
· 22	evidence which was to be presented by Complainant and Respondent
23	at a formal hearing on the Accusation, which hearing was to be
24	held in accordance with the provisions of the Administrative
25	Procedure Act ("APA"), shall instead and in place thereof be
26	submitted solely on the basis of the provisions of this
27	Stipulation and Agreement.
	FILE NO. H-2639 SD - 1 - LLOYD CRUZ EVANGELISTA, only

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

5 З. On June 13, 2001, Respondent EVANGELISTA filed a 6 Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations 7 8 in the Accusation. Respondent EVANGELISTA hereby freely and 9 voluntarily withdraws said Notice of Defense. Respondent 10 EVANGELISTA acknowledges that he understands that by withdrawing said Notice of Defense he will thereby waive his right to require 11 the Commissioner to prove the allegations in the Accusation at a 12 13 contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in 14 15 connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to 16 17 cross-examine witnesses.

18 4. This Stipulation is based on the factual allegations contained in the Accusation alleging violations of 19 Section 10177.5 of the Business and Professions Code. 20 In the interests of expedience and economy, Respondent EVANGELISTA 21 22 chooses not to contest these allegations, but to remain silent 23 and understands that, as a result thereof, these factual allegations, without being admitted or denied, will serve as a 24 prima facie basis for the disciplinary action stipulated to 25 The Real Estate Commissioner shall not be required to 26 herein. 27 provide further evidence to prove said factual allegations.

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LLOYD CRUZ EVANGELISTA, only

It is understood by the parties that the Real 1 5. 2 Estate Commissioner may adopt the Stipulation and Agreement as 3 her Decision in this matter, thereby imposing the penalty and sanctions on Respondent EVANGELISTA's real estate licenses and 4 5 license rights as set forth in the below "Order". In the event 6 that the Commissioner in her discretion does not adopt the 7 Stipulation and Agreement, it shall be void and of no effect, and 8 Respondent EVANGELISTA shall retain the right to a hearing and 9 proceeding on the Accusation under all the provisions of the APA and shall not be bound by any admission or waiver made herein. 10

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

DETERMINATION OF ISSUES

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

The conduct of Respondent EVANGELISTA, as described in the Accusation, is cause for the suspension or revocation of the real estate license and license rights of Respondent EVANGELISTA under the provisions of Section 10177.5 of the Business and Professions Code ("Code").

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1 ORDER 2 Α. All licenses and licensing rights of Respondent LLOYD CRUZ 3 EVANGELISTA under the Real Estate Law are suspended for a 4 period of one hundred and eighty (180) days from the 5 effective date of this Order. 6 в. One hundred and eighty (180) days of said suspension are 7 stayed for a period of two (2) years upon the following terms 8 and conditions: 9 1. Respondent EVANGELISTA shall obey all laws, rules and 10 regulations governing the rights, duties and 11 responsibilities of a real estate licensee in the State 12 of California; and, If the Real Estate Commissioner determines that further 13 2. 14 cause for disciplinary action against Respondent 15 EVANGELISTA has occurred within two (2) years from the effective date of the Order, the stay of suspension 16 17 hereby granted to Respondent EVANGELISTA, or such portion 18 of the stay as the Real Estate Commissioner shall deem 19 appropriate, shall be vacated. If no further cause for disciplinary action against 20 3. 21 the real estate license of Respondent EVANGELISTA 22 occurs within two (2) years from the effective date 23 of the Order, the stay hereby granted shall become 24 permanent. 25 Respondents MANOLO MISTICA MOLON and/or LLOYD CRUZ 4. 26 EVANGELISTA shall be jointly and severally liable for 27 the payment of the \$5,000 judgment in DelaCruz v. Molon FILE NO. H-2639 SD LLOYD CRUZ EVANGELISTA, only

and Evangelista, San Diego Superior Court Case No. 1 2 SC107942. Such payment shall be made prior to the effective date of this Order. 3 If said Respondents fail to satisfy this condition, the Commissioner may order 4 5 suspension of Respondents' licenses until Respondents 6 satisfy said condition. 7 Respondent shall, within nine (9) months from the effective С. 8 date of the Order, take and pass the Professional Responsibility Examination administered by the Department 9 10 including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the 11 12 Commissioner may order suspension of Respondent's license 13 until Respondent passes the examination. 14 15 10/30/01 16 17 REAL ESTATE 0F 18 19 I have read the Stipulation and Agreement, have 20 discussed it with my counsel, and its terms are understood by me 21 and are agreeable and acceptable to me. I understand that I am 22 waiving rights given to me by the California Administrative 23 Procedure Act (including but not limited to Sections 11506, 24 11508, 11509, and 11513 of the Government Code), and I willingly, 25 intelligently, and voluntarily waive those rights, including the 26 right of requiring the Commissioner to prove the allegations in 27

LLOYD CRUZ EVANGELISTA, only

1 the Accusation at a hearing at which I would have the right to 2 cross-examine witnesses against me and to present evidence in 3 defense and mitigation of the charges. 4 5 10.30.2001 6 DATED LLOYD CRUZ EVANGELISTA Respondent 7 8 I have reviewed the Stipulation and Agreement as to 9 form and content and have advised my client accordingly. 10 11 01 12 ERIC KINDER 13 Attorney for Respondent 14 15 16 The foregoing Stipulation and Agreement is hereby 17 adopted by the Real Estate Commissioner as her Decision and 18 Order and shall become effective at 12 o'clock noon on 19 January 9 2002. 20 IT IS SO ORDERED USTCuber 29 2001. 21 22 PAULA REDDISH ZINNEMANN Real Estate Commissioner 23 24 tul 25 26 27 FILE NO. H-2639 SD LLOYD CRUZ EVANGELISTA, only 6 -

BEFORE THE DEPARTMENT OF REAL ESTATI STATE OF CALIFORNIA

JUN 1 5 2001

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In the Matter of the Accusation of

DEPARTMENT OF REAL EST

MANOLO MISTICA MOLON. LLOYD CRUZ EVANGELISTA. Case No. H-2639 SD

OAH No.

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at THE OFFICE OF ADMINISTRATIVE HEARINGS, 1350 FRONT STREET, ROOM 6022, SAN DIEGO, CA 92101 on TUESDAY, OCTOBER 30, 2001, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: JUNE 15, 2001

 $B\nu$ RRY a.

DEPARTMENT OF REAL ESTATE

ALAM

Counsel

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1 2 3 · 4 5	DAVID A. PETERS, Counsel (SBN 99528) Department of Real Estate P. O. Box 187000 Sacramento, CA 95818-7000 Telephone: (916) 227-0789 -or- (916) 227-0781 (Direct) DEPARTMENT OF REAL ESTATE MUNIC
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8	BEFORE THE DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	* * *
11	In the Matter of the Accusation of) No. H-2639 SD
12) MANOLO MISTICA MOLON,) <u>ACCUSATION</u>
13	LLOYD CRUZ EVANGELISTA,)
14	Respondents.
15	The Complainant, J. Chris Graves, a Deputy Real Estate
16	Commissioner of the State of California, for cause of accusation
17	against MANOLO MISTICA MOLON dba E Real Estate and Real
18	Financial (hereinafter "Respondent MOLON") and LLOYD CRUZ
19	EVANGELISTA (hereinafter "Respondent EVANGELISTA"), is informed
20	and alleges as follows:
21	I
22	The Complainant, J. Chris Graves, a Deputy Real Estate
23	Commissioner of the State of California, makes this accusation
24 25	in his official capacity.
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II Respondents MOLON and EVANGELISTA, are licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter "the Code") as follows: MANOLO MISTICA MOLON - as a real estate broker. LLOYD CRUZ EVANGELISTA - as a real estate salesperson. III On or about November 30, 2000, in the San Diego Superior Court, Central Division, County of San Diego, State of California, in Small Claims Case No. SC107942, a final judgment was entered against Respondent MOLON and Respondent EVANGELISTA based on grounds of fraud, misrepresentation, or deceit with reference to a transaction for which a real estate license is required. ΊV The facts set forth in Paragraph III above constitute cause under Section 10177.5 of the Code for suspension or revocation of all licenses and license rights of Respondent MOLON and Respondent EVANGELISTA under the Real Estate Law.

- 2 -

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof a decision be rendered imposing disciplinary action against all licenses and license rights of Respondents under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other provisions of law. VES Real Estate Commissioner eputy Dated at San Diego, California, this 314 _ day of May, 2001. 3 -