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DEPARTMENT OF REAL ESTATE

By *By dew*

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:

12 SALVADOR VILLALOBOS and
13 MIGUEL TORRES-MENDEZ,

14 Respondents.

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) No. H-3383 FR
) ACCUSATION
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15 The Complainant, BRENDA SMITH, in her official capacity as a Supervising
16 Special Investigator of the State of California, Department of Real Estate ("Department"), brings
17 this Accusation against SALVADOR VILLALOBOS ("VILLALOBOS") and MIGUEL TORRES-
18 MENDEZ ("TORRES-MENDEZ"), (collectively "Respondents"), and is informed and alleges as
19 follows:

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21 VILLALOBOS is presently licensed by the Department and/or has license rights
22 under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code
23 ("Code"), as real estate broker, License No.01452828.

24 2

25 VILLALOBOS presently holds from the Department a mortgage loan originator
26 license endorsement, Nationwide Mortgage Licensing System and Registry ("NMLS"), NMLS Id.
27 No.1069397.

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At all relevant times, VILLALOBOS was doing business under the fictitious business name of Old Mission Real Estate Services ("OMRES")

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TORRES-MENDEZ is presently licensed by the Department and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Code, as real estate broker, License No.01360225.

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TORRES-MENDEZ presently holds from the Department a mortgage loan originator license endorsement, NMLS Id. No.1169072.

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At all relevant times, TORRES-MENDEZ was working as a broker associate with VILLALOBOS, including VILLALOBOS's DBA OMRES.

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At all relevant times, Respondents engaged in the business of, acted in the capacity of, advertised or assumed to act as real estate licensees within the State of California within the meaning of Section 10131(d) of the Code including 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.

FIRST CAUSE OF ACTION

(Fraud and/or Dishonest Dealings and/or Negligence as to Both Respondents)

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Each and every allegation made above in Paragraphs 1 through 7, inclusive, is incorporated by reference as if fully set forth herein.

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On or about February 2, 2020, the Department received a consumer online complaint from Janae V., who filed the complaint on behalf of her father Juvenal G. The complaint alleges that TORRES-MENDEZ failed to pay off one of two mortgages associated with a refinancing transaction where TORRES-MENDEZ represented Juvenal V, as a mortgage loan originator.

TORRES-MENDEZ represented Juvenal G. as a mortgage loan originator for the purpose of obtaining a loan, in the amount of approximately \$200,000, to pay off the remaining mortgage on two properties owned by Juvenal G.: 1272 E. Barstow, Fresno, CA ("Barstow Property") and 4606 E. Turner, Fresno, CA ("Turner Property"). The original loan on the Barstow Property was conventional mortgage. The original loan on the Turner Property was obtained from a private lender, Miles H.

On or about August 23, 2019, the remaining mortgage on the Barstow Property, which totaled approximately \$83,000, was paid in full. However, the remaining mortgage on the Turner Property, including a cash-out payment of \$16,700 owed to Miles H., were not paid by TORRES-MENDEZ.

In December 2019, TORRES-MENDEZ paid Miles H. the cash-out amount of \$16,700. However, TORRES-MENDEZ did not pay off the remaining mortgage, which totaled approximately \$95,000, on the Turner Property.

On February 12, 2020, Janae V. informed the Department that TORRES-MENDEZ paid the remaining \$95,000 owed on the Turner Property. A review of the Closing Disclosure showed VILLALOBOS, DBA OMRES, as the Mortgage Loan Originator on the \$200,000 loan, and that TORRES-MENDEZ received a processing fee.

SECOND CAUSE OF ACTION
(Audit Violations as to VILLALOBOS)

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Each and every allegation made above in Paragraphs 1 through 13, inclusive, is incorporated by reference as if fully set forth herein.

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From on or about April 20, 2020, to January 12, 2021, an audit was conducted of the real estate activities of VILLALOBOS and his DBA OMRES, located at 5100 N. Sixth St. Ste. 115B, Fresno, CA 93710. The Department's auditor examined the business records of VILLALOBOS for the period of July 1, 2018, through March 31, 2020, ("audit period").

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While engaging in the real estate activities described in Paragraph 7 and within the audit period, VILLALOBOS accepted or received funds in trust ("trust funds") and deposited or caused the trust funds to be deposited into a trust account maintained as follows:

Trust Account #1

Bank Name:	Citizens Business Bank 7733 N. Fresno St. Fresno, CA 93720
Account No.:	Last 4 Digits: 3043
Account Name:	Salvador Moreno Villalobos DBA Old Mission Real Estate SRV Escrow Division Trust Account
Signatories:	Salvador Moreno Villalobos (REB)
Description:	Handling of trust funds from escrow activities. Deposits consisted of earnest money deposits and funds from lenders. Disbursements consisted of seller proceeds, lender payoffs, repairs, and other miscellaneous disbursements.

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In the course of the real estate activities described in Paragraph 7, above, and during the audit period, it was discovered:

(a) January 31, 2020, Trust Account #1 contained a shortage in the amount of \$93,874.20. The shortage was caused by a bank fees in the amount of \$1,037.20, a disbursements to the Monera Properties in the amount of \$92,512.00, and the remaining shortage of \$325.00 could not be identified. VILLALOBOS provided no evidence that the owners of the trust funds had given

1 written consent to allow VILLALOBOS to reduce the balance of the funds in the trust account to an
2 amount less than the existing trust fund liability, in violation of Section 10145 of the Code and
3 Section 2832.1 of Chapter 6, Title 10, California Code of Regulations ("Regulations");

4 (b) VILLALOBOS failed to reconcile at least once a month the balance of all
5 separate beneficiary or transaction records to the balance of the record of trust funds received and
6 disbursed from Trust Account #1 in violation of Section 10145 of the Code and Section 2831.2 of
7 the Regulations;

8 (c) VILLALOBOS failed to maintain an accurate control record for Trust
9 Account #1, in violation of Section 10145 of the Code and Section 2831 of the Regulations; and

10 (d) VILLALOBOS failed to maintain separate beneficiary records for Trust
11 Account #1, in violation of Section 10145 of the Code and Section 2831.1 of the Regulations.

12 **THIRD CAUSE OF ACTION**
13 **(Breach of Fiduciary Duties as to Both Respondents)**

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15 Each and every allegation in Paragraphs 1 through 17, inclusive, is incorporated by
16 reference as if fully set forth herein.

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18 At all relevant times herein, while acting as real estate agents and mortgage loan
19 originators, Respondents owed their clients and/or beneficiaries fiduciary duties, including, but not
20 limited to the following: duty of reasonable care and skill; duty of honesty; duty of good faith; duty
21 of loyalty; and duty of diligence.

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23 Respondents breached their fiduciary duties by engaging in the acts and/or omissions
24 described above in Paragraphs 1 through 19.

25 **GROUND FOR DISCIPLINE**

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27 Each and every allegation in Paragraphs 1 through 20, inclusive, is incorporated by
reference as if fully set forth herein.

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The acts and/or omissions of TORRES-MENDEZ, as described above in the FIRST and THIRD CAUSES OF ACTION, constitute grounds for discipline pursuant to Sections 10176(i), 10177(d), 10177(g), and 10177(j) of the Code.

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The acts and/or omissions of VILLALOBOS, as described above in FIRST, SECOND, and THIRD CAUSES OF ACTION, constitute violations of Sections 10145, 10176(i), 10177(d), 10177(g), and 10177(j) of the Code, in conjunction with Sections 2831, 2831.1, 2831.2, and 2832.1 of the Regulations.

MATTERS IN AGGRAVATION
(Prior Discipline as to VILLALOBOS)

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Each and every allegation made above in Paragraphs 1 through 23, inclusive, is incorporated by reference as if fully set forth herein.

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On or about July 26, 2017, the Department issued a Corrective Action Letter to VILLALOBOS in response to VILLOLOBOS' failure to timely submit to the NMLS the 2016 Annual Financial Condition Report, which was due on March 31, 2017, in violation of Section 10166.08 of the Code.

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On or about August 16, 2017, the Department issued to VILLALOBOS a Collective Action Letter - Final Notice letter stating that VILLALOBOS 2016 Annual Financial Condition Report remained delinquent.

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On or about November 13, 2017, the Department issued to VILLALOBOS a Citation, No. C-4-17-1109-007, in the amount of \$150 for VILLALOBOS failure to submit the 2016 Annual Financial Condition Report.

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