

1 Department of Real Estate
 185 Berry Street, Room 3400
 2 San Francisco, CA 94107-1770
 3 Telephone: (415) 904-5917

FILED
 JUL 25 1994
 DEPARTMENT OF REAL ESTATE

By *Lynda Montiel*
 Lynda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)	No. H-6831 SF
12 ROSA RODRIGUEZ LONTOC,)	<u>STIPULATION AND AGREEMENT</u>
13 NONILON ATIENZA LONTOC, and)	<u>IN SETTLEMENT AND ORDER</u>
14 DAVID ELLIS BROADY,)	
15 Respondents.)	

16 It is hereby stipulated by and between ROSA RODRIGUEZ
 17 LONTOC and NONILON ATIENZA LONTOC (Respondents), only,
 18 represented by their attorney John D. Randolph, and the
 19 Complainant, acting by and through Deidre L. Johnson, Counsel
 20 for the Department of Real Estate, as follows for the purpose of
 21 settling and disposing the Accusation as to them filed on
 22 December 1, 1992, as amended on July 20, 1993, in this matter:

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

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement in Settlement.

3 2. Respondents have received, read and understand the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Amended Accusation filed by the Department of Real Estate in
6 this proceeding.

7 3. On December 8, 1992, Respondent ROSA RODRIQUEZ
8 LONTOC filed a Notice of Defense, and as of July 20, 1993,
9 Respondent NONILON ATIENZA LONTOC was deemed to file a Notice of
10 Defense, pursuant to Section 11505 of the Government Code for the
11 purpose of requesting a hearing on the allegations in the Amended
12 Accusation. Respondents hereby freely and voluntarily withdraw
13 said Notices of Defense. Respondents acknowledges that they each
14 understand that by withdrawing said Notice of Defenses they each
15 will thereby waive the right to require the Commissioner to prove
16 the allegations in the Amended Accusation at a contested hearing
17 held in accordance with the provisions of the APA, and that they
18 each will waive other rights afforded to them in connection with
19 the hearing such as the right to present evidence in defense of
20 the allegations in the Amended Accusation and the right to cross-
21 examine witnesses.

22 4. Respondents have read the Discovery Provisions of
23 the APA and is aware of the right to conduct discovery in the
24 proceeding, and by entering into this stipulation, freely and
25 voluntarily waive the right to conduct further discovery.

26 5. Respondents, pursuant to the limitations set forth
27 below, hereby admit that the factual allegations set forth in the

1 Amended Accusation as to her are true and correct and the Real
2 Estate Commissioner shall not be required to provide further
3 evidence of such allegations. A true copy of the Amended
4 Accusation is attached hereto as Annex A and incorporated herein
5 by reference.

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

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

23 8. Respondent ROSA RODRIGUEZ LONTOC has received, read
24 and understands the "Notice Concerning Costs of Subsequent
25 Audits." Respondent understands that by agreeing to this
26 Stipulation and Agreement in Settlement, the findings set forth
27 below in the DETERMINATION OF ISSUES become final, and that the

1 Commissioner may charge Respondent for the costs of any audit
2 conducted pursuant to Section 10148 of the Business and
3 Professions Code to determine if the violations have been
4 corrected.

5 DETERMINATION OF ISSUES

6 By reason of the foregoing stipulations, admissions and
7 waivers and for the purpose of settlement of the pending Amended
8 Accusation as to Respondents without a hearing, it is stipulated
9 and agreed that the following determination of issues shall be
10 made:

11 I

12 The acts and/or omissions of Respondent ROSA RODRIGUEZ
13 LONTOC, as described in Paragraphs V through IX, and XIV through
14 XVI of the Amended Accusation as to her are grounds for the
15 suspension or revocation of the real estate license and license
16 rights of Respondent under the provisions of Sections 10137,
17 10176(e), 10177(g) and 10177(h) of the California Business and
18 Professions Code (the Code), and under Section 10177(d) of the
19 Code in conjunction with Sections 10085, 10145, and 10146 of the
20 Code, and Sections 2830, 2831, 2831.1, 2970 and 2972 of Title 10,
21 California Code of Regulations.

22 II

23 The acts and/or omissions of Respondent NONILON ATIENZA
24 LONTOC, as alleged in Paragraph XIX of the Amended Accusation as
25 to him are grounds for the suspension or revocation of the real
26 estate license and license rights of Respondent under the

27

1 provisions of Section 10177(g) of the California Business and
2 Professions Code (the Code).

3 ORDER

4 I

5 A. All real estate licenses and license rights of
6 Respondent ROSA RODRIGUEZ LONTOC are revoked.

7 B. A restricted real estate broker license shall be
8 issued to Respondent pursuant to Section 10156.6 of the Code if
9 she makes application therefor and pays to the Department the
10 appropriate fee for said license within ninety (90) days of the
11 effective date of the decision.

12 C. The restricted license issued to Respondent shall be
13 subject to all of the provisions of Section 10156.7 of the
14 Business and Professions Code and to the following limitations
15 imposed under authority of Section 10156.6 of said Code:

- 16 1) The restricted license may be suspended prior to
17 hearing by order of the Real Estate Commissioner
18 in the event of Respondent's conviction or plea of
19 nolo contendere to a crime which bears a
20 substantial relationship to Respondent's fitness
21 or capacity as a real estate licensee.
- 22 2) The restricted license may be suspended prior to
23 hearing by Order of the Real estate Commissioner
24 on evidence satisfactory to the Commissioner that
25 Respondent has violated provisions of the
26 California Real Estate Law, the Subdivided Lands
27 Law, Regulations of the Real Estate Commissioner
or conditions attaching to the restricted license.
- 28 3) Respondent shall not be eligible to apply for the
29 issuance of an unrestricted real estate license,
30 nor the removal of any of the conditions of the
31 restricted license, until three (3) years has
32 elapsed from the date of issuance of the
33 restricted license.
- 34 4) Respondent shall, within nine (9) months from the
35 effective date of this decision, present evidence

1 satisfactory to the Real Estate Commissioner that
2 she has, since the most recent issuance of an
3 original or renewal real estate license, taken and
4 successfully completed the continuing education
5 requirements of Article 2.5 of Chapter 3 of the
6 Real Estate Law for renewal of a real estate
7 license. If Respondent fails to satisfy this
8 condition, the Commissioner may order the
9 suspension of the restricted license until the
10 Respondent presents such evidence. The
11 Commissioner shall afford Respondent the
12 opportunity for hearing pursuant to the
13 Administrative Procedure Act to present such
14 evidence.

- 5) Respondent shall, within six (6) months from the
effective date of the restricted license, take and
pass the Professional Responsibility Examination
administered by the Department including the
payment of the appropriate examination fee. If
Respondent fails to satisfy this condition, the
Commissioner may order suspension of the
restricted license until Respondent passes the
examination.
- 6) Pursuant to Section 10148 of the Business and
Professions Code, Respondent shall pay the
Commissioner's reasonable cost for an audit as a
result of the trust fund violation(s) stipulated to
above. In calculating the amount of the
Commissioner's reasonable cost, the Commissioner may
use the estimated average hourly salary for all
Department Audit Section personnel performing audits
of real estate brokers, and shall include an
allocation for travel time to and from the auditor's
place of work. Respondent shall pay such cost
within forty-five (45) days of receiving an invoice
from the Commissioner detailing the activities
performed during the audit and the amount of time
spent performing those activities. The Commissioner
may suspend the restricted license issued to
Respondent pending a hearing held in accordance with
Section 11500, et seq., of the Government Code, if
payment is not timely made as provided for therein,
or as provided for in a subsequent agreement between
the Respondent and the Commissioner. The suspension
shall remain in effect until payment is made in full
or until Respondent enters into an agreement
satisfactory to the Commissioner to provide for
payment, or until a decision providing otherwise is
adopted following a hearing held pursuant to this
condition.

- 1 7) Respondent shall submit to the Real Estate
2 Commissioner a Transaction Statement as of the last
3 day of each calendar quarter (the accounting date)
4 for so long as said restricted license shall remain
5 in effect. The Transaction Statement shall report
6 all of her dealings in real estate whether
7 undertaken as a principal or agent, and shall set
8 forth the following information for each such
9 transaction:
10 (a) the nature of the transaction and a brief
11 description of the property involved;
12 (b) the name and address of each party to the
13 transaction;
14 (c) the date of the execution of the agreement;
15 (d) the date of the closing of the transaction, if
16 any;
17 (e) the name and address of the escrow agent, if
18 any;
19 (f) the purchase price of the property or the
20 amount of the loan or other consideration involved;
21 (g) an accounting of the receipt and disposition of
22 funds received by Respondent as agent in the
23 transaction;
24 (h) the amount of commission received.
25 8) Respondent shall submit to the Real Estate
26 Commissioner a Trust Fund Position Statement as of the
27 last day of each calendar quarter (the accounting date)
 for so long as said restricted license shall remain in
 effect. The Position Statement shall consist of the
 following:
 (a) A schedule of trust fund accountability with
 the following information for each beneficiary or
 transaction in which Respondent is accountable as
 agent or trustee to the owner of funds:
 1. Account number;
 2. Type of transaction (purchase and sale,
 property management, loan collection);
 3. Name of principal or beneficiary;

1 4. Description of real property;

2 5. Trust fund liability.

3 (b) A report of trust funds in the custody and
4 control of Respondent as of the accounting date
consisting of:

5 1. A copy of Respondent's trust account bank
6 statement(s) showing the balance of funds in
the account(s) as of the accounting date.

7 2. A schedule of uncleared checks drawn on the
8 account(s) adjusting the account to its true
balance as of the accounting date.

9 3. A statement explaining any discrepancy
10 between the total liability shown under
(a) above and the adjusted trust account(s)
11 balance shown under (b) above.

12 9. The Transaction Statement and the Trust Fund
Position Statement shall be submitted by Respondent to
13 the Department of Real Estate not later than thirty (30)
days after each accounting date. If Respondent engaged
14 in no real estate transactions either as a principal or
agent during the calendar quarter in question, the
Transaction Statement shall so state. If Respondent has
15 no trust fund liability as of an accounting date, the
Position Statement shall so state. Respondent shall
16 certify the completeness and accuracy of each
Transaction and Position Statement under penalty of
17 perjury to the best of her knowledge and belief.

18 II

19 A. All licenses and licensing rights of Respondent
20 NONILON ATIENZA LONTOC under the Real Estate Law are revoked.

21 B. A restricted real estate salesperson license shall
22 be issued to Respondent pursuant to Section 10156.5 of the
23 Business and Professions Code if Respondent makes application
24 therefor and pays to the Department of Real Estate the appropriate
25 fee for the restricted license within 90 days from the effective
26 date of this Decision.
27

1 C. The restricted license issued to Respondent shall be
2 subject to all of the provisions of Section 10156.7 of the
3 Business and Professions Code and to the following limitations,
4 conditions and restrictions imposed under authority of Section
5 10156.6 of that Code:

- 6 1) The restricted license issued to Respondent may be
7 suspended prior to hearing by order of the Real
8 Estate Commissioner in the event of respondent's
9 conviction or plea of nolo contendere to a crime
10 which is substantially related to Respondent's
11 fitness or capacity as a real estate licensee.
- 12 2) The restricted license issued to Respondent may be
13 suspended prior to hearing by Order of the Real
14 Estate Commissioner on evidence satisfactory to the
15 Commissioner that respondent has violated the
16 provisions of the California Real Estate Law, the
17 Subdivided Lands Law, Regulations of the Real Estate
18 Commissioner or conditions attaching to this
19 restricted license.
- 20 3) Respondent shall not be eligible to apply for the
21 issuance of an unrestricted real estate license nor
22 for the removal of any of the conditions,
23 limitations or restrictions of a restricted license
24 until three (3) years has elapsed from the effective
25 date of this Decision.
- 26 4) Respondent shall submit with any application for
27 licensure under an employing broker, or any
application for transfer to a new employing broker,
a statement signed by the prospective employing
broker which shall certify:
 - (a) That the employing broker has read the Decision
of the Real Estate Commissioner which granted
the right to a restricted license; and
 - (b) That the employing broker will exercise close
supervision over the performance by the
restricted licensee of activities for which a
real estate license is required.
- 5) Respondent shall, within nine (9) months from the
effective date of this Decision, present evidence
satisfactory to the Real Estate Commissioner that
Respondent has, since the most recent issuance of an
original or renewal real estate license, taken and
successfully completed the continuing education

1 requirements of Article 2.5 of Chapter 3 of the Real
2 Estate Law for renewal of a real estate license. If
3 respondent fails to satisfy this condition, the
4 Commissioner may order the suspension of the
5 restricted license until the Respondent presents
6 such evidence. The Commissioner shall afford
7 respondent the opportunity for a hearing pursuant to
8 the Administrative Procedure Act to present such
9 evidence.

- 6) Respondent shall, within six (6) months from the
effective date of this Decision, take and pass the
Professional Responsibility Examination administered
by the Department including the payment of the
appropriate examination fee. If respondent fails to
satisfy this condition, the Commissioner may order
suspension of Respondent's license until respondent
passes the examination.

11 DATED:

June 23, 1994

Deidre L. Johnson
DEIDRE L. JOHNSON

Counsel for the Complainant

* * *

14 I have read the Stipulation in Settlement and Agreement,
15 have discussed it with my counsel, and its terms are understood by
16 me and are agreeable and acceptable to me. I understand that I am
17 waiving rights given to me by the California Administrative
18 Procedure Act, and I willingly, intelligently and voluntarily
19 waive those rights, including the right of requiring the
20 Commissioner to prove the allegations in the Amended Accusation at
21 a hearing at which I would have the right to cross-examine
22

23 ///

24 ///

25 ///

26 ///

27 ///

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

3
4 DATED: 8/17/94

Rosa Rodriguez Lontoc
ROSA RODRIGUEZ LONTOC
Respondent

6
7 DATED: 8/17/94

Nonilon Atienza Lontoc
NONILON ATIENZA LONTOC
Respondent

9 APPROVED AS TO FORM:

10 DATED: 8/20/94

John D. Randolph
JOHN D. RANDOLPH
Counsel for Respondents

12 * * *

13 DECISION AND ORDER

14
15 The foregoing Stipulation and Agreement in Settlement is
16 hereby adopted as my Decision and Order and shall become effective
17 at 12 o'clock noon on August 12th, 1994.

18 IT IS SO ORDERED July 13, 1994.

19 CLARK WALLACE
Real Estate Commissioner

20
21 John R. Liberator
22 BY: John R. Liberator
23 Chief Deputy Commissioner
24
25
26
27

COPY

FILED
NOV 08 1993

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

By *Lynda Montiel*
Lynda Montiel

In the Matter of the Accusation of

ROSA RODRIGUEZ LONTOC,
NONILON ATIENZA LONTOC and
DAVID ELLIS BROADY,

Case No. H-6831 SF

OAH No. N 42611

Respondent

CONTINUED
NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

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

OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102

on Tuesday, February 1, 1994 (1 day), at the hour of 9:00 am,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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

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

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: November 8, 1993

By *Deidre L. Johnson*
DEIDRE L. JOHNSON, Counsel

COPY

FILED
SEP 07 1993

Department of Real Estate
185 Berry Street, Room 3400
San Francisco, CA 94107-1770

Telephone: (415) 904-5917

DEPARTMENT OF REAL ESTATE

By *Lynda Montiel*
Lynda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
) No. H-6831 SF
ROSA RODRIGUEZ LONTOC,)
and DAVID ELLIS BROADY,) STIPULATION AND AGREEMENT
) IN SETTLEMENT AND ORDER
Respondents.) AS TO DAVID ELLIS BROADY

It is hereby stipulated by and between DAVID ELLIS BROADY (Respondent) only, and the Complainant, acting by and through Deidre L. Johnson, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation as to him filed on December 1, 1992, as amended on July 20, 1993, in this matter:

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

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

5 3. On December 30, 1992, Respondent filed his Notice of
6 Defense pursuant to Section 11505 of the Government Code for the
7 purpose of requesting a hearing on the allegations in the Amended
8 Accusation. Respondent hereby freely and voluntarily withdraws
9 said Notice of Defense. Respondent acknowledges that he
10 understands that by withdrawing said Notice of Defense he will
11 thereby waive his right to require the Commissioner to prove the
12 allegations in the Amended Accusation at a contested hearing held
13 in accordance with the provisions of the APA, and that he will
14 waive other rights afforded to him in connection with the hearing
15 such as the right to present evidence in defense of the
16 allegations in the Amended Accusation and the right to cross-
17 examine witnesses.

18 4. Respondent has read the Discovery Provisions of the
19 APA and is aware of his right to conduct discovery in the
20 proceeding, and by entering into this stipulation, freely and
21 voluntarily waives his right to conduct further discovery.

22 5. Respondent, pursuant to the limitations set forth
23 below, hereby admits that the factual allegations set forth in the
24 Amended Accusation as to him are true and correct and the Real
25 Estate Commissioner shall not be required to provide further
26 evidence of such allegations. A true copy of the Amended
27

1 Accusation is attached hereto as Annex A and incorporated herein
2 by reference.

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

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

20 DETERMINATION OF ISSUES

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

25 ///

26 ///

27 ///

1
2 The acts and/or omissions of Respondent, as described in
3 Paragraphs VIII, IX and XIV of the Amended Accusation as to him
4 are grounds for the suspension or revocation of the real estate
5 license and license rights of Respondent under the provisions of
6 Sections 10137 and 10177(f) of the California Business and
7 Professions Code (the Code), and under Section 10177(d) of the
8 Code in conjunction with Section 10130 of the Code. As to
9 Paragraph XIV, only the Arthur Young advance fee relates to
10 Broady.

11 ORDER

12 All licenses and licensing rights of Respondent DAVID
13 ELLIS BROADY under the Real Estate Law are suspended for a period
14 of ninety (90) days from the effective date of this Decision;
15 provided, however, that said suspension shall be stayed for one
16 (1) year upon the following terms and conditions:

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

20 2. That no final subsequent determination be made,
21 after hearing or upon stipulation, that cause for disciplinary
22 action occurred within one (1) year of the effective date of this
23 Decision. Should such a determination be made, the Commissioner
24 may, in his discretion, vacate and set aside the stay order and
25 reimpose all or a portion of the stayed suspension. Should no

26 ///

27 ///

1 such determination be made, the stay imposed herein shall become
2 permanent.

3 DATED: July 30, 1993

Deidre L. Johnson
DEIDRE L. JOHNSON

Counsel for the Complainant

4
5 * * *

6 I have read the Stipulation in Settlement and Agreement,
7 understand I have the right to discuss it with private counsel,
8 and its terms are understood by me and are agreeable and
9 acceptable to me. I understand that I am waiving rights given to
10 me by the California Administrative Procedure Act, and I
11 willingly, intelligently and voluntarily waive those rights,
12 including the right of requiring the Commissioner to prove the
13 allegations in the Accusation at a hearing at which I would have
14 the right to cross-examine witnesses against me and to present
15 evidence in defense and mitigation of the charges.

16 DATED: 7-27-93

David E. Broady
DAVID ELLIS BROADY
Respondent

17
18 * * *

19 DECISION AND ORDER

20 The foregoing Stipulation and Agreement in Settlement is
21 hereby adopted as my Decision and Order and shall become effective
22 at 12 o'clock noon on September 27th, 1993.

23 IT IS SO ORDERED

8/23, 1993.

24 CLARK WALLACE
Real Estate Commissioner

25
26 Clark Wallace
27

COPY

FILED
JUL 20 1993

DEPARTMENT OF REAL ESTATE

DEIDRE L. JOHNSON, Counsel
Department of Real Estate
185 Berry Street, Room 3400
San Francisco, CA 94107

Telephone: (415) 904-5917

By

Lynda Montiel
Lynda Montiel

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
ROSA RODRIGUEZ LONTOC,)
NONILON ATIENZA LONTOC and)
DAVID ELLIS BROADY,)
Respondents.)

No. H-6831 SF

AMENDED
ACCUSATION

The Complainant, Edward V. Chiolo, a Deputy Real Estate Commissioner of the State of California, for causes of Accusation against ROSA RODRIGUEZ LONTOC dba First Choice Mortgage, Worldwide Realty, Worldwide Realty & Mortgage Co., and Worldwide Realty & Mortgage (hereafter ROSA), NONILON ATIENZA LONTOC (hereafter NONILON) and DAVID ELLIS BROADY (hereafter BROADY), is informed and alleges as follows:

FIRST CAUSE OF ACTION

I.

The Complainant, Edward V. Chiolo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity and not otherwise.

II

Respondents ROSA, NONILON and BROADY are licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereafter the Code) as follows:

ROSA ROGRIGUEZ LONTOC - as a real estate broker.

NONILON ATIENZA LONTOC - as a real estate salesperson.

DAVID ELLIS BROADY - beginning on or about July 31, 1991, as a real estate salesperson.

III

At various times herein mentioned, respondents ROSA, NONILON and BROADY performed acts requiring a real estate license for or in expectation of compensation.

IV

At all times material herein, respondent BROADY was in the employ of ROSA.

V

Within the three-year period immediately preceding the filing of this Accusation, respondent ROSA, individually and doing business as "Worldwide Realty & Mortgage," engaged in the business and acted in the capacity of a real estate broker by 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 for or in expectation of compensation.

///

///

VI

1
2 Within the three-year period immediately preceding the
3 filing of this Accusation, respondent ROSA, individually and doing
4 business as "Worldwide Realty & Mortgage," engaged in the business
5 of, acted in the capacity of, advertised or assumed to act as a
6 real estate broker within the State of California, including the
7 operation and conduct of a mortgage loan brokerage business with
8 the public wherein lenders and borrowers were solicited for loans
9 secured directly or collaterally by liens on real property, and
10 wherein such loans were arranged, negotiated, processed, and
11 consummated on behalf of others for or in expectation of
12 compensation.

13 VII

14 At all times herein mentioned, respondent NONILON, as a
15 licensed real estate salesperson with more than two years of
16 experience, was the office manager in charge of and responsible
17 for the day-to-day supervision and control of the activities of
18 the above business.

19 VIII

20 Within the three-year period immediately preceding the
21 filing of this Accusation and continuing at various times through
22 on or about July 30, 1991, in connection with the mortgage loan
23 brokerage activities described in Paragraph VI above, ROSA
24 permitted BROADY, at times when BROADY was not licensed by the
25 Department of Real Estate, to perform acts for which a real estate
26 license is required. ROSA permitted BROADY to negotiate and so
27 negotiated at least the following loans:

	<u>DATE</u>	<u>BORROWER</u>	<u>PROPERTY</u>
1			
2	June 30, 1990	Alma Marie Hughey	207 College Avenue Vallejo, California
3	October 4, 1990	Cheryl L. Crosby	2874 55th Avenue Oakland, California
4			
5	October 25, 1990	Robert W. Barros	568 Cambrian Way Danville, California
6			

IX

Within the three-year period immediately preceding the filing of this Accusation and continuing at various times, ROSA employed and/or compensated BROADY for performing licensed acts at times when he was not licensed as a real estate salesperson or a real estate broker. Respondent ROSA compensated BROADY for performing said licensed acts in connection with transactions including but not limited to the following:

	<u>PAYEE</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>BORROWER</u>
15				
16	David Broady	February 22, 1990	\$2,347.00	Robert W. Barros
17	David Broady	September 6, 1990	\$1,004.24	Alma Marie Hughey
18	David Broady	December 5, 1990	\$2,200.00	Cheryl L. Crosby

X

The acts and/or omissions of respondent ROSA set forth in Paragraphs VIII and IX above, constitute violation of Section 10137 of the Code and are grounds for suspension or revocation of all licenses and license rights of respondent ROSA under the Real Estate Law.

XI

The acts and/or omissions of respondent ROSA set forth in Paragraphs VIII and IX above constitute negligence or

1 incompetence in performing acts for which a license is required,
2 in violation of Section 10177(g) of the Code, and are grounds for
3 suspension or revocation of all licenses and license rights of
4 respondent ROSA under the Real Estate Law.

5 XII

6 The acts and/or omissions of respondent BROADY set forth
7 in Paragraphs VIII and IX above constitute violation of Section
8 10130 of the Code and are grounds for suspension or revocation of
9 all licenses and license rights of respondent BROADY under
10 Sections 10137, 10177(d) and 10177(f) of the Code.

11 SECOND CAUSE OF ACTION

12 XIII

13 There is hereby incorporated in this second, separate,
14 and distinct cause of action all of the allegations contained in
15 Paragraphs I through IX of the first cause of action with the same
16 force and effect as if herein fully set forth.

17 XIV

18 In connection with the operation and conduct of the
19 mortgage loan brokerage business described in Paragraph VI above,
20 respondent ROSA, individually and/or by and through BROADY or
21 others, engaged in the business of claiming, demanding, charging,
22 receiving, collecting and contracting for the collection of
23 advance fees within the meaning of Sections 10026 and 10131.2 of
24 the Code, including but not limited to the following:

25 <u>BORROWER</u>	<u>DATE</u>	<u>ADVANCE FEE</u>
26 John Gentry	January 23, 1990	\$479.00
27 Arthur Young	September 4, 1990	\$200.00

1 Said advance fees were trust funds within the meaning of
2 Sections 10145 and/or 10146 of the Code.

3 XV

4 In connection with the collection and handling of said
5 advance fees, respondent ROSA failed to cause advance fee
6 contracts and materials to be submitted to the Department prior to
7 use.

8 XVI

9 Respondent ROSA, beginning on or before January 23, 1990
10 and continuing thereafter, in connection with the above trust
11 funds, acted in violation of the Code and Title 10, California
12 Code of Regulations (hereafter the Regulations) in that:

13 1. Respondent ROSA failed to deposit or cause to be
14 deposited said trust funds into a trust fund account in respondent
15 ROSA's name at a bank or other financial institution. Respondent
16 ROSA commingled or caused to be commingled said trust funds with
17 respondent ROSA's own money or property.

18 2. Respondent ROSA failed to maintain a separate record
19 for each beneficiary or transaction, accounting therein for all
20 said trust funds received, deposited and disbursed.

21 XVII

22 The acts and/or omissions of respondents as alleged
23 above are grounds for the suspension or revocation of the licenses
24 and license rights of respondents under the following sections of
25 the Code and the Regulations:

26 1. As to respondent ROSA as to Paragraphs XIV, XV and
27 XVI, under Sections 10177(g) and/or 10177(h) of the Code.

1 2. As to respondent ROSA as to Paragraphs XIV and XVI,
2 under Section 10176(e) of the Code, and under Section 10177(d) of
3 the Code in conjunction with Sections 10145 and 10146 of the Code
4 and Sections 2830, 2831, and 2831.1 of the Regulations.

5 3. As to respondent ROSA as to Paragraphs XIV and XV,
6 under Section 10085 of the Code and Sections 2970 and 2972 of the
7 Regulations.

8 4. As to respondent BROADY as to Paragraph XIV, under
9 Section 10177(d) of the Code in conjunction with Section 10130.

10 THIRD CAUSE OF ACTION

11 XVIII

12 There is hereby incorporated in this third, separate,
13 and distinct cause of action all of the allegations contained in
14 Paragraphs I through IX of the first cause of action and
15 Paragraphs XIV through XVI of the second cause of action with the
16 same force and effect as if herein fully set forth.

17 XIX

18 Respondent NONILON was negligent and/or incompetent in
19 the performance of his responsibilities as alleged in Paragraph
20 VII above in that he knew or should have known all of the facts
21 alleged in this Accusation that occurred after July 20, 1990, and
22 could have and should have taken reasonable and prudent steps to
23 assure the company's compliance with the Real Estate Law and the
24 Regulations, and failed to do so.

25 XX

26 The acts and/or omissions of respondent NONILON as
27 alleged above are grounds for the suspension or revocation of the

1 licenses and license rights of respondent under the provisions of
2 Section 10177(g) of the Code.

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

Edward V. Chio

10 EDWARD V. CHIOLO
11 Deputy Real Estate Commissioner

12 Dated at San Francisco, California,
13 this 20th day of July, 1993.

flag

COPY

FILED
APR 22 1993

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

ROSA RODRIGUEZ LONTOC,
and DAVID ELLIS BROADY,

By

Linda Montiel
Linda Montiel

Case No. H-6831 SF

OAH No. N 42611

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

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

OFFICE OF ADMINISTRATIVE HEARINGS, STATE BUILDING,

455 Golden Gate Avenue, Room 2248, San Francisco, CA 94102

on June 25th, 1993 (1 day), at the hour of 9:00 am,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you.

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

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

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter. The interpreter must be approved by the Administrative Law Judge conducting the hearing as someone who is proficient in both English and the language in which the witness will testify. You are required to pay the costs of the interpreter unless the Administrative Law Judge directs otherwise.

DEPARTMENT OF REAL ESTATE

Dated: April 22, 1993

By

Deidre L. Johnson
DEIDRE L. JOHNSON, Counsel

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FILED
DEC 01 1992

Telephone: (415) 904-5917

By Victoria Dillon
Victoria Dillon

* * *

ACCUSATION

The Complainant, Edward V. Chiolo, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against ROSA RODRIGUEZ LONTOC dba First Choice Mortgage, Worldwide Realty, Worldwide Realty & Mortgage Co., and Worldwide Realty & Mortgage (hereafter LONTOC) and DAVID ELLIS BROADY (hereafter BROADY), is informed and alleges as follows:

FIRST CAUSE OF ACCUSATION

I

The Complainant, Edward V. Chiolo, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondents in his official capacity and not otherwise.

/ / / / /

II

Respondents LONTOC and BROADY are licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereafter the Code) as follows:

ROSA RODRIGUEZ LONTOC - as a real estate broker.

DAVID ELLIS BROADY - beginning on or about July 31, 1991 as a real estate salesperson.

III

At various times herein mentioned, respondents LONTOC and BROADY performed acts requiring a real estate license for or in expectation of a compensation.

IV

At all times material herein, respondent BROADY was in the employ of LONTOC.

V

Within the three-year period immediately preceding the filing of this Accusation, respondent LONTOC, individually and doing business as "Worldwide Realty & Mortgage", engaged in the business and acted in the capacity of a real estate broker by selling or offering to sell, buying or offering to buy, soliciting prospective sellers or purchaser of, soliciting or obtaining listings of, or negotiating the purchase, sale or exchange of real property for or in expectation of a compensation.

VI

Within the three-year period immediately preceding the filing of this Accusation, respondent LONTOC, individually and doing business as "Worldwide Realty & Mortgage", engaged in the

1 business of, acted in the capacity of, advertised, or assumed to
2 act as a real estate broker within the State of California,
3 including the operation and conduct of a mortgage loan brokerage
4 business with the public wherein lenders and borrowers were
5 solicited for loans secured directly or collaterally by liens on
6 real property, and wherein such loans were arranged, negotiated,
7 processed, and consummated on behalf of others for or in
8 expectation of a compensation.

9 VII

10 Within the three-year period immediately preceding the
11 filing of this Accusation and continuing at various times through
12 on or about July 30, 1991, in connection with the mortgage loan
13 brokerage activities described in Paragraph VI above, LONTOC
14 permitted BROADY, at times when BROADY was not licensed by the
15 Department of Real Estate, to perform acts for which a real estate
16 license is required. LONTOC permitted BROADY to negotiate and he
17 so negotiated at least the following loans:

18	<u>DATE</u>	<u>BORROWER</u>	<u>PROPERTY</u>
19	June 30, 1990	Alma Marie Hughey	207 College Avenue
20			Vallejo, California
21	October 4, 1990	Cheryl L. Crosby	2874 55th Avenue
22			Oakland, California
23	October 25, 1990	Robert W. Barros	568 Cambrian Way
24			Danville, California

25 VIII

26 Within the three-year period immediately preceding the
27 filing of this Accusation and continuing at various times, LONTOC

1 employed and/or compensated BROADY for performing licensed acts at
2 times when he was not licensed as a real estate salesperson or a
3 real estate broker. Respondent LONTOC compensated BROADY for
4 performing said licensed acts in connection with transactions
5 including but not limited to the following:

<u>PAYEE</u>	<u>DATE</u>	<u>AMOUNT</u>	<u>BORROWER</u>
David Broady	February 22, 1990	\$2,347.00	Robert W. Barros
David Broady	September 6, 1990	\$1,004.25	Alma Marie Hughey
David Broady	December 5, 1990	\$2,200.00	Cheryl L. Crosby

IX

The acts and/or omissions of respondent LONTOC set forth in Paragraphs VII and VIII above, constitute violation of Section 10137 of the Code, and are grounds for suspension or revocation of all licenses and license rights of respondent LONTOC under the Real Estate Law.

X

The acts and/or omissions of respondent LONTOC set forth in Paragraphs VII and VIII above, constitute negligence or incompetence in performing acts for which a license is required, in violation of Section 10177(g) of the Code, and are grounds for suspension or revocation of all licenses and license rights of respondent LONTOC under the Real Estate Law.

XI

The acts and/or omissions of respondent BROADY set forth in Paragraphs VII and VIII above, constitute violation of Section 10130 of the Code and are grounds for suspension or revocation of

/ / / / /

1 all licenses and license rights of respondent BROADY under
2 Sections 10137, 10177(d) and 10177(f) of the Code.

3 SECOND CAUSE OF ACCUSATION

4 XII

5 There is hereby incorporated in this second, separate,
6 and distinct cause of Accusation all of the allegations contained
7 in Paragraphs I through VI of the First Cause of Accusation with
8 the same force and effect as if herein fully set forth.

9 XIII

10 In connection with the operation and conduct of the
11 mortgage loan brokerage business described in Paragraph VI above,
12 respondent LONTOC, individually and/or by and through BROADY or
13 others, engaged in the business of claiming, demanding, charging,
14 receiving, collecting and contracting for the collection of
15 advance fees within the meaning of Sections 10026 and 10131.2
16 (advance fees) of the Code, including but not limited to the
17 following:

18	<u>BORROWER</u>	<u>DATE</u>	<u>ADVANCE FEE</u>
19	John Gentry	January 23, 1990	\$479.00
20	Arthur Young	September 4, 1990	\$200.00

21 Said advance fees were trust funds within the meaning of
22 Sections 10145 and/or 10146 of the Code.

23 XIV

24 In connection with the collection and handling of said
25 advance fees, respondent LONTOC failed to cause advance fee
26 contracts and materials to be submitted to the Department prior to
27 use.

XV

Respondent LONTOC, beginning on or before January 23, 1990 and continuing thereafter, in connection with the above trust funds, acted in violation of the Code and Title 10, California Code of Regulations (hereafter the Regulations) in that:

1. Respondent LONTOC failed to deposit or cause to be deposited said trust funds into a trust fund account in respondent LONTOC's name at a bank or other financial institution.

Respondent LONTOC commingled or caused to be commingled said trust funds with respondent LONTOC's own money or property.

2. Respondent LONTOC failed to maintain a separate record for each beneficiary or transaction, accounting therein for all said trust funds received, deposited and disbursed.

XVI

The acts and/or omissions of Respondents as alleged in this Second Cause of Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondents under the following sections of the Code and the Regulations:

1. As to respondent LONTOC as to Paragraph XIII and XV(1) under Section 10177(g) and/or 10177(h) of the Code.

2. As to respondent LONTOC as to Paragraph XV under Section 10176(e) of the Code, and under Section 10177(d) of the Code in conjunction with Sections 10145 and 10146 of the Code and Sections 2830, 2832 and 2831.1 of the Regulations.

3. As to respondent LONTOC as to Paragraph XIV, under Section 10177(d) of the Code in conjunction with Section 10085 of the Code and Sections 2970 and 2972 of the Regulations.

1 4. As to respondent BROADY as to Paragraph XIII under
2 Section 10177(f) of the Code in conjunction with Section 10130.

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

Edward V. Chio

10 EDWARD V. CHIOLO
11 Deputy Real Estate Commissioner

12 Dated at San Francisco, California,
13 this 18th day of NOVEMBER, 1992.