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**FILED**

FEB 5 2013

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )  
12 ) No. H-11512 SF  
13 TORIBIO VALDIVIA, ) ACCUSATION  
14 Respondent. )  
15 \_\_\_\_\_ )

16 The Complainant, ROBIN S. TANNER, acting in her official capacity as a  
17 Deputy Real Estate Commissioner of the State of California, for cause of Accusation against  
18 TORIBIO VALDIVIA ("Respondent"), is informed and alleges as follows:

19 1.

20 Respondent is presently licensed and/or has license rights under the Real Estate  
21 Law Part 1 of Division 4 of the Business and Professions Code ("the Code") as a real estate  
22 salesperson.

23 2.

24 On or about July 14, 2011, in the Superior Court of the State of California,  
25 County of Santa Clara, Case No. F1035818, Respondent was convicted of violating section  
26 242/243(e) of the Penal Code (domestic violence), a misdemeanor which bears a substantial

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1 relationship under section 2910, title 10, California Code of Regulations ("the Regulations") to  
2 the qualifications, functions or duties of a real estate licensee.

3 3.

4 On or about July 14, 2011, in the Superior Court of the State of California,  
5 County of Santa Clara, Case No. 1199098, Respondent was convicted of violating section  
6 242/243(a) of the Penal Code (battery), a misdemeanor which bears a substantial relationship  
7 under section 2910 the Regulations to the qualifications, functions or duties of a real estate  
8 licensee.

9 4.

10 The facts alleged above in Paragraphs 2 and 3 constitute grounds under sections  
11 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of  
12 Respondent under Part 1 of Division 4 of the Code.

13 COST RECOVERY

14 5.

15 The Department will seek to recover cost of the investigation and prosecution of  
16 this case pursuant to section 10106 of the Code which provides, in pertinent part, that in any  
17 order issued in resolution of a disciplinary proceeding before the Department, the commissioner  
18 may request the administrative law judge to direct a licensee found to have committed a violation  
19 of this part to pay a sum not to exceed the reasonable costs of the investigation and enforcement  
20 of the case.

21 WHEREFORE, Complainant prays that a hearing be conducted on the allegations  
22 of this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and  
23 license rights of Respondent under the Real Estate Law, for the cost of investigation and

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1 enforcement as permitted by law, and for such other and further relief as may be proper under  
2 other provisions of law.

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4   
5 ROBIN S. TANNER  
6 Deputy Real Estate Commissioner  
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8 Dated at Oakland, California, on  
9 this 7<sup>th</sup> day of November, 2012.

10  
11 DISCOVERY DEMAND  
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13 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the  
14 Department hereby makes demand for discovery pursuant to the guidelines set forth in the  
15 *Administrative Procedure Act*. Failure to provide Discovery to the Department may result in the  
16 exclusion of witnesses and documents at the hearing or other sanctions that the Office of  
17 Administrative Hearings deems appropriate.  
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