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FILED
FEB 26 2004
DEPARTMENT OF REAL ESTATE

By *R. Friederholt*

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-24848 LA
)	
JOHN JOSEPH MARTINEZ,)	
)	
Respondent.)	
)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On July 13, 1992, a Decision was rendered herein revoking the real estate salesperson license of Respondent, but granting Respondent the right to apply for and be issued a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on August 5, 1992.

On July 25, 2002, Respondent petitioned for reinstatement of said real estate salesperson license and the Attorney General of the State of California has been given notice of the filing of said petition.

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1
2 I have considered the petition of Respondent and
3 the evidence and arguments in support thereof. Respondent
4 has demonstrated to my satisfaction that Respondent meets
5 the requirements of law for the issuance to Respondent of an
6 unrestricted real estate salesperson license and that it would
7 not be against the public interest to issue said license to
8 Respondent JOHN JOSEPH MARTINEZ.

9 NOW, THEREFORE, IT IS ORDERED that Respondent's
10 petition for reinstatement is granted and that a real estate
11 salesperson license be issued to Respondent, if Respondent
12 satisfies the following conditions within nine (9) months from
13 the date of this Order:

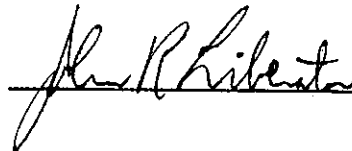
14 1. Submittal of a completed application and payment
15 of the fee for a real estate salesperson license.

16 2. Submittal of evidence satisfactory to the Real
17 Estate Commissioner that Respondent has since the most recent
18 issuance of an original or renewal real estate license, taken
19 and successfully completed the continuing education requirements
20 of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
21 of a real estate license.

22 This Order shall be effective immediately.

23 Dated: February 23, 2004.

24 JOHN R. LIBERATOR
25 Acting Real Estate Commissioner

26 
27 _____

26 cc: John J. Martinez
27 221 W. Summit Rd.
La Verne, CA 91750

1 demonstrated to my satisfaction that grounds do not presently
2 exist to deny the issuance of an unrestricted real estate
3 broker license to Respondent.

4 NOW, THEREFORE, IT IS ORDERED that Respondent's
5 petition for reinstatement is granted and that an
6 unrestricted real estate broker license be issued to
7 Respondent, JOHN ANTHONY MESSINA, JR. , after Respondent
8 satisfies the following conditions within one (1) year from
9 the date of this Order:

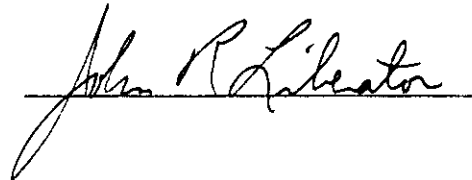
10 1. Submittal of a completed application and
11 payment of the fee for a real estate broker license.

12 2. Submittal of evidence satisfactory to the Real
13 Estate Commissioner that Respondent has, since his restricted
14 license was issued, taken and successfully completed the
15 continuing education requirements of Article 2.5 of Chapter 3
16 of the Real Estate Law for renewal of a real estate license.

17 This Order shall become effective immediately.

18 DATED: March 3, 1995.

19
20
21 JOHN R. LIBERATOR
Interim Commissioner

22 
23

24 JOHN ANTHONY MESSINA, JR.
25 677 Camellia Drive
26 Covina, California 91723
27

1 demonstrated to my satisfaction that grounds do not presently
2 exist to deny the issuance of an unrestricted real estate
3 salesperson license to Respondent.

4 NOW, THEREFORE, IT IS ORDERED that Respondent's
5 petition for reinstatement is granted and that an
6 unrestricted real estate salesperson license be issued to
7 Respondent, GEORGE ISLAS after Respondent satisfies the
8 following conditions within one (1) year from the date of
9 this Order:

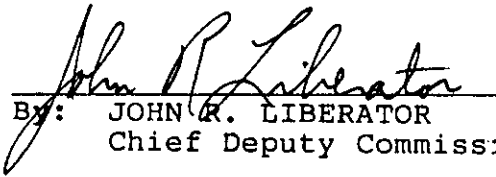
10 1. Submittal of a completed application and
11 payment of the fee for a real estate salesperson license.

12 2. Submittal of evidence satisfactory to the Real
13 Estate Commissioner that Respondent has, since February 28,
14 1992, taken and successfully completed the continuing
15 education requirements of Article 2.5 of Chapter 3 of the
16 Real Estate Law for renewal of a real estate license.

17 This Order shall become effective immediately.

18 DATED: May 6, 1994

19
20 CLARK WALLACE
Real Estate Commissioner

21 
22 By: JOHN R. LIBERATOR
Chief Deputy Commissioner

23 GEORGE ISLAS
24 14981 Brighton Court
25 Fontana, California 92336
26
27

1 Department of Real Estate
107 South Broadway, Room 8107
2 Los Angeles, California, 90012
3 Telephone: (213) 897-3937
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RECEIVED
A. Berry

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) DRE No. H-24848 LA
12 JOHN JOSEPH MARTINEZ,) OAH No. L-55384
13 Respondent.)
14 _____)

15 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

16 I

17 STIPULATION

18 It is hereby stipulated by and between Respondent JOHN
19 JOSEPH MARTINEZ (herein "Respondent" or "MARTINEZ"), and the
20 Complainant acting by and through James L. Beaver, Counsel for the
21 Department of Real Estate, as follows for the purpose of settling
22 and disposing of the Accusation filed on September 25, 1991, in
23 this matter as amended May 27, 1992 (herein "the Accusation"):

24 A. All issues which were to be contested and all
25 evidence which was to be presented by Complainant and Respondent
26 at a formal hearing on the Accusation, which hearing was to be
27 held in accordance with the provisions of the Administrative

1 Procedure Act (herein "APA"), shall instead and in place thereof
2 be submitted solely on the basis of the provisions of this
3 Stipulation and Agreement In Settlement And Order (herein "this
4 Stipulation").

5
6 B. Respondent has received, read and understands the
7 Statement to Respondent, the Discovery Provisions of the APA and
8 the Accusation filed by the Department of Real Estate in this
9 proceeding.

10 C. On October 18, 1991, Respondent filed a Notice of
11 Defense pursuant to Section 11505 of the Government Code for the
12 purpose of requesting a hearing on the allegations in the
13 Accusation. Respondent hereby freely and voluntarily withdraws
14 said Notice of Defense. Respondent acknowledges that Respondent
15 understands that, by withdrawing said Notice of Defense,
16 Respondent will thereby waive Respondent's right to require the
17 Commissioner to prove the allegations in the Accusation at a
18 contested hearing held in accordance with the provisions of the
19 APA and that Respondent will waive other rights afforded to
20 Respondent in connection with the hearing, such as the right to
21 present evidence in defense of the allegations in the Accusation
22 and the right to cross-examine witnesses.

23 D. Respondent admits the factual allegations in
24 Paragraphs I through XIII and XVI, inclusive, of the Accusation
25 and stipulates, subject to the limitations set forth below, that
26 the Real Estate Commissioner shall not be required to provide
27 further evidence of such allegations.

E. It is understood by the parties that the Real

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

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

17 II

18 DETERMINATION OF ISSUES

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

23 The conduct and omissions of Respondent described in
24 Paragraphs XII and XIII of the Accusation violated Section
25 10130 of the Code. Said violation constitutes cause for
26 suspension or revocation of all real estate licenses and
27 license rights of Respondent pursuant to the provisions of
Section 10177(d) of the Code.

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III
ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

A. The license and license rights of Respondent MARTINEZ under the provisions of Part 1 of Division 4 of the Business and Professions Code are hereby revoked.

B. A restricted real estate salesperson license shall be issued to Respondent if, within 90 days after the effective date of the Decision entered herein, said Respondent makes application for said license and pays to the Department of Real Estate the appropriate fee for said license.

C. The restricted license issued under to the Decision entered pursuant to this Stipulation shall be suspended for the thirty (30) day period commencing upon issuance of said restricted license. However, the entire thirty (30) day suspension period shall be permanently stayed if, prior to the effective date of the Decision herein, said Respondent petitions pursuant to Section 10175.2 of the Code and pays to the Real Estate Recovery Account \$25.00 for each day stayed for a maximum of \$750.00. The adoption of this provision in the Decision of the Real Estate Commissioner shall constitute a determination that it would not be against the public interest to permit said Respondent to pay a monetary penalty. Payment of the monetary penalty shall be by certified or cashier's check made payable to the Department of Real Estate.

D. The restricted license issued to Respondent MARTINEZ shall be subject to all of the provisions of Section 10156.7 of the Business and Professions Code and to the following

1 limitations, conditions and restrictions imposed under authority
2 of Section 10156.6 of the Code:

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

16 (b) Within thirty (30) days after commencement of Respondent's
17 employment by a broker, or transfer to a new broker,
18 Respondent shall submit to the Real Estate Commissioner a
19 statement signed by the employing broker which shall certify
20 that he or she has read the Decision entered pursuant to this
21 stipulation and will exercise close supervision over the
22 performance by Respondent of all activities for which a real
23 estate license is required.

24 (c) The restricted license may be suspended, prior to a hearing
25 by Order of the Real Estate commissioner, in the event of
26 Respondent's conviction or plea of nolo contendere to a crime
27 which bears a substantial relation to Respondent's fitness or
28 capacity as a real estate licensee, or upon receipt of
29 evidence satisfactory to the Real Estate Commissioner that
30 Respondent has violated provisions of the Real Estate Law of
31 the State of California, the Subdivided Lands Act, the Real
32 Estate Regulations of the State of California, or any of the
33 conditions attached to the restricted license.

34 (d) Respondent shall not be eligible to apply for the issuance of
35 an unrestricted real estate license nor the removal of any of
36 the restrictions, conditions or limitations set forth herein
37 until one (1) year has elapsed from the date of issuance of
38 the restricted license to Respondent.

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V

DECISION

The foregoing Stipulation And Agreement In Settlement and Order is hereby adopted as the Decision and Order of the Real Estate Commissioner in the above entitled matter with respect to Respondent JOHN JOSEPH MARTINEZ.

This Decision shall become effective at 12 o'clock noon on August 5, 1992.

IT IS SO ORDERED: 7/13/92

CLARK WALLACE
Real Estate Commissioner

Clark Wallace

1 be submitted solely on the basis of the provisions of this
2 Stipulation And Agreement In Settlement And Order (herein "this
3 Stipulation").

4 B. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation, filed by the Department of Real Estate in this
7 proceeding.

8 C. On October 8, 1991, Respondent filed a Notice of
9 Defense pursuant to Section 11505 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that Respondent
13 understands that, by withdrawing said Notice of Defense,
14 Respondent will thereby waive Respondent's right to require the
15 Commissioner to prove the allegations in the Accusation at a
16 contested hearing held in accordance with the provisions of the
17 APA and that Respondent will waive other rights afforded to
18 Respondent in connection with the hearing, such as the right to
19 present evidence in defense of the allegations in the Accusation
20 and the right to cross-examine witnesses.

21 D. Respondent admits the factual allegations in
22 Paragraphs I through XIV, XXVII and XXVIII, inclusive, of the
23 Accusation and stipulates, subject to the limitations set forth
24 below, that the Real Estate Commissioner shall not be required to
25 provide further evidence of such allegations.

26 E. It is understood by the parties that the Real
27 Estate Commissioner may adopt the Stipulation as his decision in

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

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

15 II

16 DETERMINATION OF ISSUES

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

21 A. In employing Salas, Flores, Islas, and Martinez, as described
22 in Paragraphs XII and XIII of the Accusation, Respondent
23 HINRICHS violated Section 10137 of the Code. Each of said
24 violations separately constitutes cause for suspension or
25 revocation of all real estate licenses and license rights of
26 Respondent HINRICHS pursuant to the provisions of Section
27 10137 of the Code.

1 B. The conduct, acts and omissions of Respondent HINRICHS, as
2 described in Paragraph XXVII of the Accusation, independently
3 and collectively constitute failure on the part of HINRICHS,
4 as the officer designated by a corporate broker licensee, to
5 exercise the reasonable supervision and control over the
6 licensed activities of FIRST NATIONAL FUNDING GROUP, INC.
7 required by Section 10159.2 of the Code, and is cause for the
8 suspension or revocation of all real estate licences and
9 license rights of HINRICHS pursuant to the provisions of
10 Section 10177(h) of the Code.

11 III

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 A. The license and license rights of Respondent JOHN
15 WILLIS HINRICHS under the provisions of Part 1 of Division 4 of
16 the Business and Professions Code are hereby suspended for the
17 thirty (30) day period commencing upon the effective date of the
18 Decision entered pursuant to this Stipulation And Agreement In
19 Settlement And Order.

20 B. However, the final fifteen (15) days of the thirty
21 (30) day suspension period shall be stayed upon the condition that
22 no further cause for disciplinary action against the real estate
23 licenses and license rights of such Respondent shall occur within
24 one (1) year after the effective date of the Decision herein.

25 C. Furthermore, the initial fifteen (15) day portion
26 of the thirty (30) day suspension period shall be permanently
27 stayed if, prior to the effective date of the Decision herein,

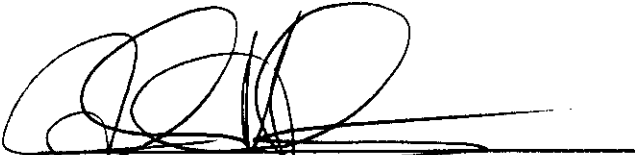
1 said Respondent petitions pursuant to Section 10175.2 of the Code
2 and pays to the Real Estate Recovery Account \$100.00 for each day
3 stayed for a maximum of \$1,500.00. The adoption of this provision
4 in the Decision of the Real Estate Commissioner shall constitute a
5 determination that it would not be against the public interest to
6 permit said Respondent to pay a monetary penalty. Payment of the
7 monetary penalty shall be by certified or cashier's check made
8 payable to the Department of Real Estate.

9 IV

10 EXECUTION OF STIPULATION

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

22 DATED: 6/29/92


23 JOHN WILLIS HINRICHS
Respondent

24 DATED: 6/29/92


25 JAMES L. BEAVER, Counsel

26 ///

27 ///

DECISION

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The foregoing Stipulation And Agreement In Settlement and Order is hereby adopted as the Decision and Order of the Real Estate Commissioner in the above entitled matter with respect to Respondent JOHN WILLIS HINRICHS.

This Decision shall become effective at 12 o'clock noon
on August 5, 1992.

IT IS SO ORDERED: 7/1/92

CLARK WALLACE
Real Estate Commissioner

[Signature]

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FILED

JUN 30 1992

DEPARTMENT OF REAL ESTATE

BY C. Berg

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-24848 LA
GEORGE ISLAS,)	
Respondent(s).)	
_____)	

ORDER NUNC PRO TUNC MODIFYING
STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

It having been called to the attention of the Real Estate Commissioner that there are errors in the Decision dated January 30, 1992, effective February 28, 1992, and good cause appearing therefor, the Decision is amended as follows:

Paragraph B of the Order is amended to read as follows:

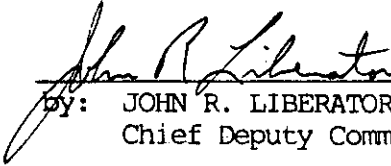
"B. A restricted real estate salesperson license shall be issued to Respondent if, within 150 days after the effective date of the Decision entered herein, said Respondent makes application for said license and pays to the Department of Real Estate the appropriate fee for said license."

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This Order, nunc pro tunc to January 30, 1992, shall
become effective at 12 o'clock noon on February 28, 1992.

IT IS SO ORDERED June 25, 1992.

CLARK WALLACE
Real Estate Commissioner


By: JOHN R. LIBERATOR
Chief Deputy Commissioner

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California, 90012

4 Telephone: (213) 897-3937

FILED

MAY 27 1992

DEPARTMENT OF REAL ESTATE
BY C. Bey

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) DRE Case No. H-24848 LA
12 CARLOS FLORES, also known as)
13 Carlos Alexander Flores,)
14 Respondent.)

15 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

16 I

17 STIPULATION

18 It is hereby stipulated by and between Respondent
19 CARLOS FLORES, also known as Carlos Alexander Flores (sometimes
20 referred to herein as "Respondent" or "FLORES"), and the
21 Complainant acting by and through James L. Beaver, Counsel for the
22 Department of Real Estate, as follows for the purpose of settling
23 and disposing of the Accusation filed on September 25, 1991, in
24 this matter (hereinafter "the Accusation"):

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A. 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 Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation.

B. Respondent 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.

C. Heretofore, Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that it understands that by withdrawing said Notice of Defense, Respondent will thereby waive Respondent's right to require the Commissioner to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondent will waive other rights afforded to Respondent in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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D. Respondent admits the factual allegations in Paragraphs I through XVI, inclusive, of the Accusation and stipulates, subject to the limitations set forth below, that the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

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

F. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation 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.

II
DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers and solely for the purpose of settlement of the pending

1
2 Accusation without a hearing, it is stipulated and agreed that the
3 following determination of Issues shall be made:

4 The conduct and omissions of Respondent FLORES described in
5 Paragraphs XII and XIII of the Accusation violated Section
6 10130 of the Code. Said violation constitutes cause for
7 suspension or revocation of all real estate licenses and
8 license rights of Respondent FLORES pursuant to the
9 provisions of Section 10177(d) of the Code.

10 III

11 ORDER

12 WHEREFORE, THE FOLLOWING ORDER is hereby made:

13 The license and license rights of Respondent CARLOS
14 ALEXANDER FLORES under the provisions of Part 1 of Division 4 of
15 the Business and Professions Code are hereby suspended for the
16 thirty (30) day period commencing upon the effective date of the
17 Decision entered pursuant to this Stipulation And Agreement In
18 Settlement And Order. However, the entire thirty (30) day
19 suspension period shall be permanently stayed if, prior to the,
20 effective date of the Decision herein, said Respondent petitions
21 pursuant to Section 10175.2 of the Code and pays to the Real
22 Estate Recovery Account \$40.00 for each day stayed for a maximum
23 of \$1,200.00. The adoption of this provision in the Decision of
24 the Real Estate Commissioner shall constitute a determination that
25 it would not be against the public interest to permit said
26 Respondent to pay a monetary penalty. Payment of the monetary
27 penalty shall be by certified or cashier's check made payable to
the Department of Real Estate.

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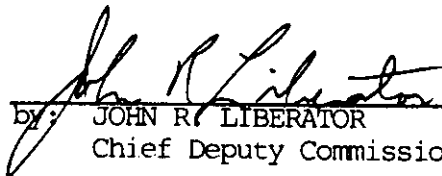
DECISION

The foregoing Stipulation And Agreement In Settlement and Order is hereby adopted as the Decision and Order of the Real Estate Commissioner in the above entitled matter with respect to Respondent CARLOS ALEXANDER FLORES.

This Decision shall become effective at 12 o'clock noon on June 30, 1992.

Dated: May 21, 1992

CLARK WALLACE
Real Estate Commissioner


by: JOHN R. LIBERATOR
Chief Deputy Commissioner

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FILED

APR 21 1992

DEPARTMENT OF REAL ESTATE
BY C. Bay

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H-24848 LA
FIRST NATIONAL FUNDING GROUP,)	L-55384
INC., a Corporation,)	
Respondent.)	

ORDER STAYING EFFECTIVE DATE

On March 30, 1992, a Decision was rendered in the above-entitled matter to become effective April 30, 1992.

IT IS HEREBY ORDERED that the effective date of the Decision of March 30, 1992, is stayed for a period of 30 days.

The Decision of March 30, 1992, shall become effective at 12 o'clock noon on May 30, 1992.

DATED: April 21, 1992

CLARK WALLACE
Real Estate Commissioner

By: Randolph Brendia
RANDOLPH BRENDIA
Regional Manager

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California, 90012

4 Telephone: (213) 897-3937

FILED

APR-2 1992

DEPARTMENT OF REAL ESTATE

BY C. Bay

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of) No. H-24848 LA
12)
13 FIRST NATIONAL FUNDING GROUP,)
14 INC., a Corporation,)
15)
16 Respondent.)

17 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

18 I

19 STIPULATION

20 It is hereby stipulated by and between Respondent FIRST
21 NATIONAL FUNDING GROUP, INC., (sometimes referred to herein as
22 "Respondent" or "FNFG") and the Complainant acting by and through
23 James L. Beaver, Counsel for the Department of Real Estate, as
24 follows for the purpose of settling and disposing of the
25 Accusation filed on September 25, 1991, in this matter
26 (hereinafter "the Accusation"):

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1 A. All issues which were to be contested and all
2 evidence which was to be presented by Complainant and Respondent
3 at a formal hearing on the Accusation, which hearing was to be
4 held in accordance with the provisions of the Administrative
5 Procedure Act (APA), shall instead and in place thereof be
6 submitted solely on the basis of the provisions of this
7 Stipulation.

8 B. Respondent has received, read and understands the
9 Statement to Respondent, the Discovery Provisions of the APA and
10 the Accusation, filed by the Department of Real Estate in this
11 proceeding.

12 C. On October 8, 1991, Respondent filed a Notice of
13 Defense pursuant to Section 11505 of the Government Code for the
14 purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notice of Defense. Respondent acknowledges that it
17 understands that by withdrawing said Notice of Defense, Respondent
18 will thereby waive Respondent's right to require the Commissioner
19 to prove the allegations in the Accusation at a contested hearing
20 held in accordance with the provisions of the APA and that
21 Respondent will waive other rights afforded to Respondent in
22 connection with the hearing such as the right to present evidence
23 in defense of the allegations in the Accusation and the right to
24 cross-examine witnesses.

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D. Respondent admits the factual allegations in Paragraphs I through XIII and XVIII through XX, inclusive, of the Accusation and stipulates, subject to the limitations set forth below, that the Real Estate Commissioner shall not be required to provide further evidence of such allegations.

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

F. The Order or any subsequent Order of the Real Estate Commissioner made pursuant to this Stipulation 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.

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II

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:

- A. In employing Salas, Flores, Islas, and Martinez, as described in Paragraphs XII and XIII of the Accusation, Respondent FNFG violated Section 10137 of the Code. Each of said violations separately constitutes cause for suspension or revocation of all real estate licenses and license rights of Respondent FNFG pursuant to the provisions of Section 10137 of the Code.
- B. The acts and omissions of Respondent FNFG described in Paragraph XX of the Accusation violated the Code and the Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
XX(a)	Sec. <u>2831</u> of the Regulations;
XX(b)	Sec. <u>2831.1</u> of the Regulations;
XX(c)	Sec. <u>2831.2</u> of the Regulations;
XX(d)	Sec. <u>2832.1</u> of the Regulations.

Each of the foregoing violations separately constitutes cause for the suspension or revocation of all licenses and license rights of Respondent FNFG under the provisions of Section 10177(d) of the Code.

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III
ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

A. The license and license rights of Respondent FIRST NATIONAL FUNDING GROUP, INC. under the provisions of Part 1 of Division 4 of the Business and Professions Code are hereby suspended for the forty-five (45) day period commencing upon the effective date of the Decision entered pursuant to this Stipulation And Agreement In Settlement And Order.

B. However, the final thirty (30) days of the forty-five (45) day suspension period shall be stayed upon the condition that no further cause for disciplinary action against the real estate licenses and license rights of such Respondent shall occur within one (1) year after the effective date of the Decision herein.

C. Furthermore, the initial thirty (15) day portion of the forty-five (45) day suspension period shall be permanently stayed if, prior to the effective date of the Decision herein, said Respondent petitions pursuant to Section 10175.2 of the Code and pays to the Real Estate Recovery Account \$250.00 for each day stayed for a maximum of \$3,750.00. The adoption of this provision in the Decision of the Real Estate Commissioner shall constitute a determination that it would not be against the public interest to permit said Respondent to pay a monetary penalty. Payment of the monetary penalty shall be by certified or cashier's check made payable to the Department of Real Estate.

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IV

EXECUTION OF STIPULATION

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

DATED: 3/18/92

FIRST NATIONAL FUNDING GROUP, INC.
Respondent



By JOSEPH A. TERROR
President

DATED: 3/18/92


JAMES L. BEAVER, Counsel

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V

DECISION

The foregoing Stipulation And Agreement In Settlement and Order is hereby adopted as the Decision and Order of the Real Estate Commissioner in the above entitled matter with respect to Respondent FIRST NATIONAL FUNDING GROUP, INC.

This Decision shall become effective at 12 o'clock noon on April 30, 1992.

IT IS SO ORDERED March 30, 1992

CLARK WALLACE
Real Estate Commissioner

By:

John R. Liberator
JOHN R. LIBERATOR
Chief Deputy Commissioner

1 Department of Real Estate
2 107 South Broadway, Room 8107
3 Los Angeles, California, 90012

4 Telephone: (213) 897-3937

FILED

FEB -3 1992

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) H-24848 LA
12)
13 GEORGE ISLAS,)
14)
15 Respondent.)
16 _____)

17 STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

18 I

19 STIPULATION

20 It is hereby stipulated by and between Respondent
21 GEORGE ISLAS (sometimes referred to herein as "Respondent" or
22 "ISLAS") and the Complainant acting by and through James L.
23 Beaver, Counsel for the Department of Real Estate, as follows for
24 the purpose of settling and disposing of the Accusation filed on
25 September 25, 1991, in this matter (hereinafter "the Accusation"):

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

1 submitted solely on the basis of the provisions of this
2 Stipulation.

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

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

20 D. Respondent admits the factual allegations in
21 Paragraphs I through XVI, inclusive, of the Accusation and
22 stipulates, subject to the limitations set forth below, that the
23 Real Estate Commissioner shall not be required to provide further
24 evidence of such allegations.

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

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

19 II

20 DETERMINATION OF ISSUES

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

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1 The conduct and omissions of Respondent GEORGE ISLAS
2 described in Paragraphs XII and XIII of the Accusation
3 violated Section 10130 of the Code. Said violation
4 constitutes cause for suspension or revocation of all real
5 estate licenses and license rights of Respondent GEORGE ISLAS
6 pursuant to the provisions of Section 10177(d) of the Code.

7 III

8 ORDER

9 WHEREFORE, THE FOLLOWING ORDER is hereby made:

10 A. The license and license rights of Respondent GEORGE
11 ISLAS under the provisions of Part 1 of Division 4 of the Business
12 and Professions Code are hereby revoked;

13 B. A restricted real estate salesperson license shall
14 be issued to Respondent if, within 90 days after the effective
15 date of the Decision entered herein, said Respondent makes
16 application for said license and pays to the Department of Real
17 Estate the appropriate fee for said license.

18 C. The restricted license issued to Respondent ISLAS
19 shall be suspended for the fifteen (15) day period commencing upon
20 issuance of said restricted license. However, the entire fifteen
21 (15) day suspension period shall be permanently stayed if, prior
22 to the effective date of the Decision herein, said Respondent
23 petitions pursuant to Section 10175.2 of the Code and pays to the
24 Real Estate Recovery Account \$33.333 for each day stayed for a
25 maximum of \$500.00. The adoption of this provision in the Decision
26 of the Real Estate Commissioner shall constitute a determination
27 that it would not be against the public interest to permit said

*Modified
has 150 days to
apply*

1 Respondent to pay a monetary penalty. Payment of the monetary
2 penalty shall be by certified or cashier's check made payable to
3 the Department of Real Estate.

4 D. The restricted license issued to Respondent ISLAS
5 shall be subject to all of the provisions of Section 10156.7 of
6 the Business and Professions Code and to the following
7 limitations, conditions and restrictions imposed under authority
8 of Section 10156.6 of the Code:

- 9 (a) Respondent shall, within one (1) year of the effective date
10 of the Decision herein, present evidence satisfactory to the
11 Real Estate Commissioner that he has, since the most recent
12 issuance of an original or renewal real estate license, taken
13 and successfully completed the continuing education
14 requirements of Article 2.5 of Chapter 3 of the Real Estate
15 Law for renewal of a real estate license. If Respondent
16 fails to satisfy this condition, the Commissioner may order
17 the suspension of the restricted license until the Respondent
18 presents such evidence. The Commissioner shall afford
19 Respondent the opportunity for a hearing pursuant to the
20 Administrative Procedure Act to present such evidence.
- 21 (b) The restricted license may be suspended, prior to a hearing
22 by Order of the Real Estate commissioner, in the event of
23 Respondent's conviction or plea of nolo contendere to a crime
24 which bears a substantial relation to Respondent's fitness or
25 capacity as a real estate licensee, or upon receipt of
26 evidence satisfactory to the Real Estate Commissioner that
27 Respondent has violated provisions of the Real Estate Law of
the State of California, the Subdivided Lands Act, the Real
Estate Regulations of the State of California, or any of the
conditions attached to the restricted license.
- 28 (e) Respondent shall not be eligible to apply for the issuance of
29 an unrestricted real estate license nor the removal of any of
30 the restrictions, conditions or limitations set forth herein
31 until one (1) year has elapsed from the date of issuance of
32 the restricted license to Respondent.

33 IV

34 EXECUTION OF STIPULATION

35 I have read the Stipulation And Agreement In Settlement
36 and its terms are understood by me and are agreeable and
37

1 acceptable to me. I understand that I am waiving rights given to
2 me by the California Administrative Procedure Act (including but
3 not limited to Sections 11506, 11508, 11509 and 11513 of the
4 Government Code), and I willingly, intelligently and voluntarily
5 waive those rights, including the right of requiring the
6 Commissioner to prove the allegations in the Accusation at a
7 hearing at which I would have the right to cross-examine witnesses
8 against me and to present evidence in defense and mitigation of
9 the charges.

10 DATED:

Jan. 13 1992

George Islas
GEORGE ISLAS
Respondent

11
12
13 DATED:

Jan. 21, 1992

James L. Beaver
JAMES L. BEAVER, Counsel

14
15 Y

16 DECISION

17 The foregoing Stipulation And Agreement In Settlement
18 and Order is hereby adopted as the Decision and Order of the Real
19 Estate Commissioner in the above entitled matter with respect to
20 Respondent GEORGE ISLAS.

21 This Decision shall become effective at 12 o'clock noon
22 on February 28, 1992.

23 Dated: January 30, 1992

24
25 CLARK WALLACE
Real Estate Commissioner

26
27 John R. Liberator
BY: JOHN R. LIBERATOR
Chief Deputy Commissioner

SAC

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JAN 10 1992

DEPARTMENT OF REAL ESTATE
BY C. Bay

In the Matter of the Accusation of

FIRST NATIONAL FUNDING GROUP;
JOHN WILLIS HINRICHS;
CARLOS FLORES;
JOHN JOSEPH MARTINEZ;
GEORGE ISLAS,

}

Case No. H-24848 LA
OAH No. L-55384

Respondent(s)

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, 314 W. First Street, Los Angeles, CA 90012

on the 27th & 28th day of July, 1992, at the hour of 9:00 a.m., or as soon thereafter as the matter can be heard, upon the charges made in the Accusation served upon you.

You may be present at the hearing, and you may be represented by counsel, but you are neither required to be present at the hearing nor to be represented by counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you upon any express admissions, 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 hearing officer 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 hearing officer directs otherwise.

DEPARTMENT OF REAL ESTATE

By James L. Beaver
JAMES L. BEAVER, Counsel

Dated: January 10, 1992

cc: First National Funding Group
John Willis Hinrichs
Carlos Flores
John Joseph Martinez
Shelli Black, Attorney at Law
OAH
RE 501 (Rev. 7/87)
LK
Funders Mortgage Corp. of America
Inter Mountain Mortgage
George Islas

✓ Sacto.

Doc

Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

Telephone: (213) 897-3937

FILED

NOV 19 1991

DEPARTMENT OF REAL ESTATE

BY C. Berg

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	H-24848 LA
)	
JOHN ANTHONY MESSINA, JR.,)	
)	
Respondent.)	
_____)	

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

I

STIPULATION

It is hereby stipulated by and between Respondent JOHN ANTHONY MESSINA, JR., (sometimes referred to herein as "Respondent" or "MESSINA") and the Complainant acting by and through James L. Beaver, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation filed on September 25, 1991, in this matter (hereinafter "the Accusation"):

A. 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 Accusation, which hearing was to be held in accordance with the provisions of the Administrative

1 Procedure Act (APA), shall instead and in place thereof be
2 submitted solely on the basis of the provisions of this
3 Stipulation.

4 B. Respondent has received, read and understands the
5 Statement to Respondent, the Discovery Provisions of the APA and
6 the Accusation, filed by the Department of Real Estate in this
7 proceeding.

8 C. On October 28, 1991, Respondent filed a Notice of
9 Defense pursuant to Section 11505 of the Government Code for the
10 purpose of requesting a hearing on the allegations in the
11 Accusation. Respondent hereby freely and voluntarily withdraws
12 said Notice of Defense. Respondent acknowledges that it
13 understands that by withdrawing said Notice of Defense, Respondent
14 will thereby waive Respondent's right to require the Commissioner
15 to prove the allegations in the Accusation at a contested hearing
16 held in accordance with the provisions of the APA and that
17 Respondent will waive other rights afforded to Respondent in
18 connection with the hearing such as the right to present evidence
19 in defense of the allegations in the Accusation and the right to
20 cross-examine witnesses.

21 D. Respondent admits the factual allegations in
22 Paragraphs I through XIII, XVIII through XXI, and XXIV, inclusive,
23 of the Accusation and stipulates, subject to the limitations set
24 forth below, that the Real Estate Commissioner shall not be
25 required to provide further evidence of such allegations.

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

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

19 II

20 DETERMINATION OF ISSUES

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

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1 The conduct, acts and omissions of Respondent MESSINA, as
2 described in Paragraph XXIII of the Accusation, independently
3 and collectively constitute failure on the part of MESSINA,
4 as the officer designated by a corporate broker licensee, to
5 exercise the reasonable supervision and control over the
6 licensed activities of FIRST NATIONAL FUNDING GROUP, INC.
7 required by Section 10159.2 of the Code, and is cause for the
8 suspension or revocation of all real estate licences and
9 license rights of MESSINA pursuant to the provisions of
10 Section 10177(h) of the Code.

11 III

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 A. The license and license rights of Respondent JOHN
15 ANTHONY MESSINA, JR. under the provisions of Part 1 of Division 4
16 of the Business and Professions Code are hereby revoked;

17 B. A restricted real estate broker license shall be
18 issued to Respondent if, within 90 days after the effective date
19 of the Decision entered herein, said Respondent makes application
20 for said license and pays to the Department of Real Estate the
21 appropriate fee for said license.

22 C. The restricted license issued to Respondent MESSINA
23 shall be suspended for the sixty (60) day period commencing upon
24 issuance of said restricted license. However, the final thirty
25 (30) days of the sixty-day suspension period shall be stayed upon
26 the condition that no further cause for disciplinary action
27 against the real estate licenses and license rights of such

1 Respondent shall occur within one (1) year after the effective
2 date of the Decision herein. Furthermore, the initial thirty (30)
3 day portion of the sixty-day suspension period shall be
4 permanently stayed if, prior to the effective date of the Decision
5 herein, said Respondent petitions pursuant to Section 10175.2 of
6 the Code and pays to the Real Estate Recovery Account \$50.00 for
7 each day stayed for a maximum of \$1,500.00. The adoption of this
8 provision in the Decision of the Real Estate Commissioner shall
9 constitute a determination that it would not be against the public
10 interest to permit said Respondent to pay a monetary penalty.
11 Payment of the monetary penalty shall be by certified or cashier's
12 check made payable to the Department of Real Estate.

13 D. The restricted license issued to Respondent MESSINA
14 shall be subject to all of the provisions of Section 10156.7 of
15 the Business and Professions Code and to the following
16 limitations, conditions and restrictions imposed under authority
17 of Section 10156.6 of the Code:

- 18 (a) Respondent shall, within nine (9) months from the effective
19 date of the restricted license, take and pass the
20 Professional Responsibility Examination administered by the
21 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.
- 22 (c) Respondent shall, within one (1) year of the effective date
23 of the Decision herein, present evidence satisfactory to the
24 Real Estate Commissioner that he has, since the most recent
25 issuance of an original or renewal real estate license, taken
26 and successfully completed the continuing education
27 requirements of Article 2.5 of Chapter 3 of the Real Estate
Law for renewal of a real estate license. If Respondent
fails to satisfy this condition, the Commissioner may order
the suspension of the restricted license until the Respondent
presents such evidence. The Commissioner shall afford
Respondent the opportunity for a hearing pursuant to the
Administrative Procedure Act to present such evidence.

- 1 (d) The restricted license may be suspended, prior to a hearing
2 by Order of the Real Estate commissioner, in the event of
3 Respondent's conviction or plea of nolo contendere to a crime
4 which bears a substantial relation to Respondent's fitness or
5 capacity as a real estate licensee, or upon receipt of
6 evidence satisfactory to the Real Estate Commissioner that
7 Respondent has violated provisions of the Real Estate Law of
8 the State of California, the Subdivided Lands Act, the Real
9 Estate Regulations of the State of California, or any of the
10 conditions attached to the restricted license.
- 11 (e) Respondent shall not be eligible to apply for the issuance of
12 an unrestricted real estate license nor the removal of any of
13 the restrictions, conditions or limitations set forth herein
14 until one (1) year has elapsed from the date of issuance of
15 the restricted license to Respondent.

16 IV

17 EXECUTION OF STIPULATION

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

28 DATED: 1 Nov 91

John Anthony Messina, Jr.
JOHN ANTHONY MESSINA, JR.
Respondent

29 DATED: 11-5-91

James L. Beaver
JAMES L. BEAVER, Counsel

V

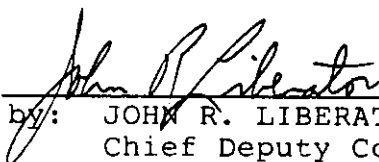
DECISION

The foregoing Stipulation And Agreement In Settlement and Order is hereby adopted as the Decision and Order of the Real Estate Commissioner in the above entitled matter with respect to Respondent JOHN ANTHONY MESSINA, JR.

This Decision shall become effective at 12 o'clock noon on December 31, 1991.

Dated: November 13, 1991

CLARK WALLACE
Real Estate Commissioner


by: JOHN R. LIBERATOR
Chief Deputy Commissioner

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James L. Beaver, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012
Telephone: (213) 897-3937

FILED

MAY 27 1992

DEPARTMENT OF REAL ESTATE

BY C. Berry

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	DRE No. H-24848 LA
FIRST NATIONAL FUNDING GROUP, a)	OAH No. L-55384
Corporation; JOHN WILLIS HINRICHS,)	
individually and as designated officer)	<u>AMENDMENT TO</u>
First National Funding Group; JOHN)	<u>ACCUSATION</u>
ANTHONY MESSINA, JR.; CARLOS FLORES;)	
GEORGE ISLAS; and JOHN JOSEPH MARTINEZ;)	
Respondents.)	

The Complainant, STEVEN J. ELLIS, a Deputy Real Estate Commissioner of the State of California, hereby amends the Accusation filed herein September 25, 1991 against JOHN WILLIS HINRICHS, individually and as designated officer of First National Funding Group. Complainant, as and for a Fifth Cause of Accusation herein, is informed and alleges as follows:

FIFTH CAUSE OF ACCUSATION

XXVI

Complainant incorporates herein the allegations of Paragraphs I through XXV, inclusive, of the Accusation filed

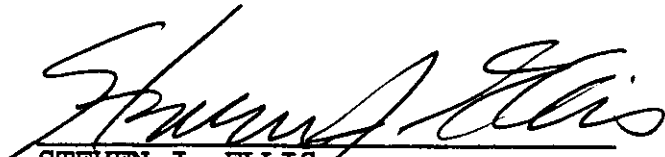
1
2 herein September 25, 1991.

3 XXVII

4 From on or about November 13, 1990, through on or about
5 March 4, 1991, Respondent HINRICHS caused, suffered, and permitted
6 Respondents FNFG, FLORES, ISLAS, and MARTINEZ to violate Section
7 10130 of the Code, and Respondent HINRICHS caused, suffered, and
8 permitted Respondent FNFG to violate Section 10137 of the Code,
9 all as described in Paragraphs XII through XVI, inclusive, of the
10 Accusation filed herein September 25, 1991.

11 XXVIII

12 The conduct, acts and omissions of Respondent HINRICHS,
13 as described in Paragraph XXVII, above, independently and
14 collectively constitute failure on the part of HINRICHS, as the
15 officer designated by a corporate broker licensee, to exercise the
16 reasonable supervision and control over the licensed activities of
17 FNFG required by Section 10159.2 of the Code, and is cause for the
18 suspension or revocation of all real estate licences and license
19 rights of HINRICHS pursuant to the provisions of Section 10177 (h)
20 of the Code.

21 
22 STEVEN J. ELLIS
23 Deputy Real Estate Commissioner

24 Dated at Los Angeles, California

25 this 27th day of May, 1992.

26 cc: First National Funding Group
27 John Willis Hinrichs
John Anthony Messina, Jr.
Carlos Flores
George Islas
John Joseph Martinez
Sacto.

LK

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James L. Beaver, Counsel
Department of Real Estate
107 South Broadway, Room 8107
Los Angeles, California, 90012

(213) 620-4790

SEP 28 1987

Beaver

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	H- 24848 LA
)	
FIRST NATIONAL FUNDING GROUP, a)	<u>ACCUSATION</u>
Corporation; JOHN WILLIS HINRICHS,)	
individually and as designated officer)	
First National Funding Group; JOHN)	
ANTHONY MESSINA, JR.; CARLOS FLORES;)	
GEORGE ISLAS; and JOHN JOSEPH MARTINEZ;)	
)	
Respondents.)	

The Complainant, STEVEN J. ELLIS, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against FIRST NATIONAL FUNDING GROUP, a Corporation; JOHN WILLIS HINRICHS, individually and as designated officer of First National Funding Group; CARLOS FLORES; GEORGE ISLAS; and JOHN JOSEPH MARTINEZ (herein "Respondents"), is informed and alleges as follows:

I

The term "the Regulations" as used herein refers to provisions of Chapter 6, Title 10, California Code of Regulations.

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II

The Complainant, STEVEN J. ELLIS, a Deputy Real Estate Commissioner of the State of California, makes this Accusation against Respondent in his official capacity.

III

Respondents are presently licensed and/or have license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (herein "the Code").

IV

At all times mentioned herein, Respondent FIRST NATIONAL FUNDING GROUP (herein "FNFG"), a corporation, was and now is licensed by the Department of Real Estate of the State of California (herein "the Department") as a corporate real estate broker. At all times mentioned herein to and including November 13, 1990, FNFG was licensed as a corporate real estate broker by and through JOHN ANTHONY MESSINA, JR. (herein "MESSINA") as the officer and broker responsible pursuant to the provisions of Section 10159.2(a) of the Code for supervising the activities requiring a real estate license conducted on behalf of FNFG by FNFG's officers and employees. At all times mentioned herein from and after November 13, 1990, FNFG was licensed as a corporate real estate broker by and through JOHN WILLIS HINRICHS (herein "HINRICHS") as the officer and broker responsible pursuant to the provisions of Section 10159.2(a) of the Code for supervising the activities requiring a real estate license conducted on behalf of FNFG by FNFG's officers and employees.

V

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2 At all times mentioned herein, Respondent MESSINA was
3 and now is licensed by the Department individually as a real
4 estate broker and, until November 13, 1990, as an officer of FNFG.

5 VI

6 At all times mentioned herein, Respondent HINRICHS was
7 and now is licensed by the Department individually as a real
8 estate broker and, from and after November 13, 1990, as an officer
9 of FNFG.

10 VII

11 At all times mentioned herein since June 6, 1991,
12 Respondent CARLOS FLORES (herein "FLORES") has been and now is
13 licensed by the Department as a real estate salesperson; prior to
14 June 6, 1991, FLORES was not licensed by the Department as either
15 a real estate salesperson or as a real estate broker.

16 VIII

17 At all times mentioned herein since April 8, 1991,
18 Respondent GEORGE ISLAS (herein "ISLAS") has been and now is
19 licensed by the Department as a real estate salesperson; prior to
20 April 8, 1991, ISLAS was not licensed by the Department as either
21 a real estate salesperson or as a real estate broker.

22 IX

23 At all times mentioned herein since March 8, 1991,
24 Respondent JOHN JOSEPH MARTINEZ (herein "MARTINEZ") has been and
25 now is licensed by the Department as a real estate salesperson;
26 prior to March 8, 1991, MARTINEZ was not licensed by the
27 Department as either a real estate salesperson or as a real estate
broker.

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X

All further references herein to "Respondents" include the parties identified in Paragraphs IV through IX, above, and also include the officers, directors, employees, agents and real estate licensees employed by or associated with said parties and who at all times herein mentioned were engaged in the furtherance of the business or operations of said parties and who were acting within the course and scope of their authority and employment.

XI

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 in the State of California within the meaning of Section 10131(d) of the Code, including the operation and conduct of a mortgage loan brokerage with the public wherein Respondents solicited prospective borrowers and lenders for and negotiated and arranged loans secured by a lien on real property, for another or others, for or in expectation of compensation.

XII

From on or about January 1, 1990, through March 4, 1991, in course of the activities described in Paragraph XI, above, Respondents FNFG, HINRICHS, and/or MESSINA employed and compensated James Salas and Respondents FLORES, ISLAS, and MARTINEZ, persons then not licensed by the Department and known to Respondents not to be licensed by the Department, to perform acts requiring a real estate license for and in the name of FNFG, including but not limited to soliciting borrowers for applications

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2 for loans to be secured directly by liens on real property, and
3 including but not limited to the acts described in Paragraph XIII,
4 below.

5 XIII

6 In the course of the employment described in Paragraph
7 XII, above:

8 (a) On or about the dates tabulated below, MARTINEZ,
9 without first obtaining any license from the Department, for and
10 in expectation of compensation, as agent for FNFG, solicited and
11 obtained applications from the borrowers tabulated below for
12 mortgage loan to be arranged by FNFG to be secured by lien on real
13 property as tabulated below:

14	<u>DATE</u>	<u>BORROWERS</u>	<u>SECURITY PROPERTY</u>
15	04-12-90	Marc Santiago Elizabeth Santiago	3232 Cosby Avenue Baldwin Park, CA 91706
16			
17	06-11-90	Cruz Alberto Mendez Agustina Mendez	6109 Hanlin Avenue Azusa, CA 91702
18	08-27-90	Marianne Paez	19240 Bel Air Drive Walnut, CA 91789
19			
20	10-02-90	David Kruckenberg Tamara Kruckenberg	355 Dexter Street Covina, CA 91723
21	11-16-90	Frank Navarro Linda Navarro	2613 Loosemore Street Los Angeles, CA 90065
22			
23	11-21-90	Lazaro Prado Esther Prado	6537 Clybourn Avenue North Hollywood, CA 91606
24			

25 (b) On or about the dates tabulated below, James Salas,
26 without first obtaining any license from the Department, for and
27 in expectation of compensation, as agent for FNFG, solicited and

1
2 obtained applications from the borrowers tabulated below for
3 mortgage loan to be arranged by FNFG to be secured by lien on real
4 property as tabulated below:

5	<u>DATE</u>	<u>BORROWERS</u>	<u>SECURITY PROPERTY</u>
6	04-09-90	Diego Reveles	24417 Groven Lane Moreno Valley, CA 92387
7			
8	06-15-90	Daniel Vejar Adriana Vejar	1308 East Walnut Creek Pkwy West Covina, CA 91790
9			
10	09-30-90	Andres Gonzalez Virginia Gonzalez	17907 Wellford Drive La Puente, CA 91744

11 (c) On or about the July 6, 1990, ISLAS, without first
12 obtaining any license from the Department, for and in expectation
13 of compensation, as agent for FNFG, solicited and obtained an
14 application from Gonzalo Hinojosa and Gloria Hinojosa for a
15 mortgage loan to be arranged by FNFG to be secured by a lien on
16 real property at 1237 Michelle, West Covina, CA 91790;

17 (d) On or about the April 5 1990, FLORES, without first
18 obtaining any license from the Department, for and in expectation
19 of compensation, as agent for FNFG, solicited and obtained an
20 application from Tommy Savage and Glynis Savage for a mortgage
21 loan to be arranged by FNFG to be secured by a lien on real
22 property at 1905 San Simion, Pomona, CA 91766.

23 XIV

24 In employing Salas, FLORES, ISLAS and MARTINEZ, as
25 described in Paragraphs XII and XIII, above, Respondents FNFG,
26 HINRICHS, and MESSINA violated Section 10137 of the Code. Each of
27 said violations separately constitutes cause for suspension or

1
2 revocation of all real estate licenses and license rights of
3 Respondents FNFG, HINRICHS, and MESSINA pursuant to the provisions
4 of Section 10137 of the Code.

5 SECOND CAUSE OF ACCUSATION

6 XV

7 Complainant incorporates herein the allegations of
8 Paragraphs I through XIV, inclusive, hereinabove.

9 XVI

10 The conduct and omissions of Respondents FLORES, ISLAS
11 and MARTINEZ described in Paragraphs XII and XIII, above, violated
12 Section 10130 of the Code. Said violation constitutes cause for
13 suspension or revocation of all real estate licenses and license
14 rights of Respondents FLORES, ISLAS and MARTINEZ pursuant to the
15 provisions of Section 10177(d) of the Code.

16 THIRD CAUSE OF ACCUSATION

17 XVII

18 Complainant incorporates herein the allegations of
19 Paragraphs I through XVI, inclusive, hereinabove.

20 XVIII

21 At all times mentioned herein, in connection with the
22 activities described in Paragraph XI, above, Respondents accepted
23 or received borrowers' credit report and appraisal fee advance
24 deposits in trust (herein "trust funds") from or on behalf of
25 actual and prospective borrowers and thereafter made disbursement
26 of such funds. From time to time mentioned herein these trust
27 funds were maintained by Respondents in bank accounts, including
but not necessarily limited to Account No. 2065-01407 at the

1
2 branch of Sanwa Bank California in the City of West Covina,
3 California.

4 XIX

5 On or about March 4, 1991, the Department completed an
6 examination of Respondents' books and records pertaining to
7 Respondents' activities, as described in Paragraph XI, for the ten
8 month period ending October 31, 1990, which revealed violations of
9 the Code and Chapter 6, Title 10, California Code of Regulations
10 (herein "the Regulations"), as set forth in the following
11 paragraphs.

12 XX

13 In connection with the trust funds described in
14 Paragraph XVIII, during the ten month period described in
15 Paragraph XIX, Respondents FNFG and MESSINA:

16 (a) Failed to maintain a formal trust fund receipts
17 journal and a formal trust fund disbursements journal in
18 connection with the account identified above, or other records of
19 the receipt and disposition of all trust funds accepted in trust
20 by Respondents conforming to the requirements of Section 2831 of
21 the Regulations;

22 (b) Failed to maintain adequate separate records for
23 each beneficiary or transaction, accounting therein for all trust
24 funds received, deposited, and disbursed, conforming to the
25 requirements of Section 2831.1 of the Regulations;

26 (c) Failed to perform a monthly reconciliation of the
27 records of the receipt and disposition of all trust funds received
in trust by Respondents, and the balance of all separate

1 beneficiary or transaction records;

2
3 (d) Disbursed or caused or allowed the disbursement of
4 trust funds from said account, where the disbursement of said
5 funds reduced the funds in the said account to an amount which, on
6 October 31, 1990, was approximately \$4,819.33 less than the
7 existing aggregate trust fund liability to all owners of said
8 funds, without first obtaining the prior written consent of every
9 principal who was an owner of said funds.

10 XXI

11 The acts and omissions of Respondents FNFG and MESSINA
12 described in Paragraph XX, above, violated the Code and the
13 Regulations as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
14 XX(a)	Sec. 2831 of the Regulations;
15 XX(b)	Sec. 2831.1 of the Regulations;
16 XX(c)	Sec. 2831.2 of the Regulations;
XX(d)	Sec. 2832.1 of the Regulations.

17 Each of the foregoing violations separately constitutes cause for
18 the suspension or revocation of all licenses and license rights of
19 Respondents FNFG and MESSINA under the provisions of Section
20 10177 (d) of the Code.

21 FOURTH CAUSE OF ACCUSATION

22 XXII

23 Complainant incorporates herein the allegations of
24 Paragraphs I through XXI, inclusive, hereinabove.

25 XXIII


26 Respondent MESSINA caused, suffered, and permitted
27 Respondents FNFG, HINRICHS, FLORES, ISLAS, and MARTINEZ to violate

1 Sections 10130 and 10137 of the Code, and Sections 2831, 2831.1,
2 2831.2, and 2832.1, of the Regulations, as described hereinabove.
3

4 XXIV

5 The conduct, acts and omissions of Respondent MESSINA,
6 as described in Paragraph XXIII, above, independently and
7 collectively constitute failure on the part of MESSINA, as the
8 officer designated by a corporate broker licensee, to exercise the
9 reasonable supervision and control over the licensed activities of
10 FNFG required by Section 10159.2 of the Code, and is cause for the
11 suspension or revocation of all real estate licences and license
12 rights of MESSINA pursuant to the provisions of Section 10177 (h)
13 of the Code.

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

21 
22 STEVEN J. ELLIS
Deputy Real Estate Commissioner

23 Dated at Los Angeles, California

24 this 25th day of September , 1991.

25 CC: FIRST NATIONAL FUNDING GROUP
26 JOHN WILLIS HINRICHS
JOHN ANTHONY MESSINA, JR.
CARLOS FLORES
27 GEORGE ISLAS
JOHN JOSEPH MARTINEZ
SACTO.
LK