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FILED  
FEB 18 1997  
DEPARTMENT OF REAL ESTATE

By Ernie J. J. J.

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of ) DRE No. H-26131 LA  
) OAH No. L-9607274  
LATIN CORP.; )  
FRED MORELAND PHELPS, )  
individually and as )  
designated officer of )  
Latin Corp.; and ARTURO BASULTO, )  
)  
Respondents. )

DECISION AFTER RECONSIDERATION

On December 10, 1996, a Decision was rendered herein by the Real Estate Commissioner which revoked the real estate broker license and license rights of respondent. Said Decision is to become effective on February 18, 1997.

On January 14, 1997, respondent petitioned for reconsideration of said Decision. I have considered the petition of respondent and have concluded that good cause has been presented for reconsideration of the Decision of December 10, 1996, for the limited purpose of determining whether the disciplinary action therein imposed should be reduced.



1 Subdivided Lands Law, Regulations of the Real Estate Commissioner,  
2 or conditions attaching to the restricted license.

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

15 4. Respondent shall not be eligible to apply for the  
16 issuance of an unrestricted real estate license nor for the  
17 removal of any of the conditions, limitations or restrictions of a  
18 restricted license until one year has elapsed from the effective  
19 date of this Decision.

20 5. Respondent shall submit with any application for  
21 license under an employing broker, or any application for transfer  
22 to a new employing broker, a statement signed by the prospective  
23 employing real estate broker which shall certify:

24 (a) That the employing broker has read the Decision of  
25 the Commissioner which granted the right to a  
26 restricted license; and

27 / / / / /

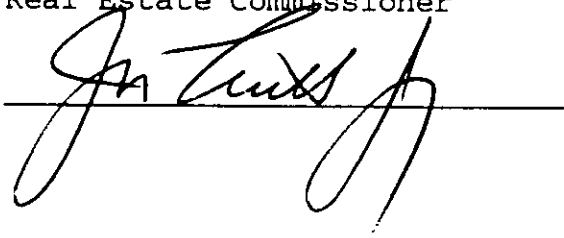
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(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

As hereby modified and amended, the Decision of December 10, 1996, shall become effective at 12 o'clock noon on February 18, 1997.

IT IS SO ORDERED 2/18, 1997.

JIM ANTT, JR.  
Real Estate Commissioner



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FILED  
JAN 16 1997

DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of	)	No. H-26131 LA
LATIN CORP., et al.,	)	L-9607274
Respondents.	)	

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ORDER STAYING EFFECTIVE DATE

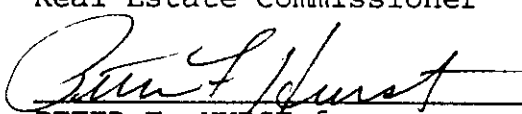
On December 10, 1996, a Decision was rendered in the above-entitled matter to become effective January 16, 1997.

IT IS HEREBY ORDERED that the effective date of the Decision of December 10, 1996, is stayed for a period of 30 days as to respondent FRED MORELAND PHELPS only.

The Decision of December 10, 1996, shall become effective at 12 o'clock noon on February 18, 1997.

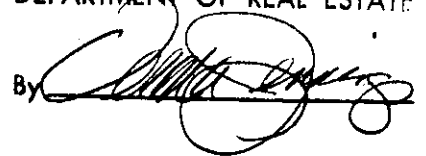
DATED: January 16, 1997.

JIM ANTT, JR.  
Real Estate Commissioner

By:   
PETER F. HURST for  
RANDOLPH BRENDIA  
Regional Manager

FILED  
DEC 27 1996

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE  
By 

\* \* \* \* \*

In the Matter of the Accusation of	)	No. H-26131 LA
	)	
	)	L-9607274
LATIN CORP.;	)	
FRED MORELAND PHELPS,	)	
individually and as	)	
designated officer of	)	
Latin Corp.; and	)	
ARTURO BASULTO,	)	
	)	
	)	
Respondents.	)	

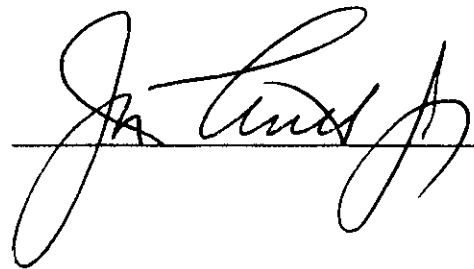
DECISION

The Proposed Decision dated November 20, 1996, of the Administrative Law Judge of the Office of Administrative Hearings, is hereby adopted as the Decision of the Real Estate Commissioner in the above-entitled matter as to respondent FRED MORELAND PHELPS.

This Decision shall become effective at 12 o'clock noon on January 16, 1997.

IT IS SO ORDERED 12/10/96

JIM ANTT, JR.  
Real Estate Commissioner



BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

In the Matter of the Accusation of )  
 )  
LATIN CORP.; )  
FRED MORELAND PHELPS, )  
individually and as )  
designated officer of )  
Latin Corp.; and )  
ARTURO BASULTO, )  
 )  
Respondents. )  
\_\_\_\_\_ )

Case No. H-26131 LA  
OAH No. L-9607274

PROPOSED DECISION

This matter came on regularly for hearing before H. Stuart Waxman, Pro Tempore Administrative Law Judge of the Office of Administrative Hearings, at Los Angeles, California on November 8, 1996. Complainant, Peter F. Hurst, was represented by Elliott Mac Lennan, Staff Counsel.

Respondent, Latin Corporation, was no longer a respondent in this action, its corporate real estate broker's license and license rights having been revoked on August 14, 1996.

Respondent, Arturo Basulto, was no longer a respondent in this action, having reached a stipulation with the Department of Real Estate ("Department") on October 24, 1996.

Respondent, Fred Moreland Phelps ("Respondent"), did not appear, despite being properly served with notice of this hearing. However, in a handwritten note, written on the Notice of Hearing on Accusation, Respondent requested that the former broker for Latin Corporation, Kyle Bradshaw, appear on his behalf. Mr. Bradshaw was allowed to testify on Respondent's behalf.

Complainant's counsel requested and was granted leave to amend the Accusation to include a reference to Business and Professions Code section 10103 entitling the Department to revoke an expired broker's license.

Oral and documentary evidence was received and the matter was submitted for decision.

///

FINDINGS OF FACT

The Administrative Law Judge makes the following Findings of Fact:

1. The Accusation was made by Peter F. Hurst, Complainant, who is a Deputy Real Estate Commissioner of the State of California, acting in his official capacity.

2. Respondent was licensed by the Department of Real Estate ("Department") on a date prior to January 1, 1994 under a real estate broker's license pursuant to Part 1 of Division 4 of the Business and Professions Code. The broker's license expired on January 13, 1996.

3. On May 24, 1994, Respondent was licensed by the Department as designated officer of Latin Corporation to qualify it and to act for it as a real estate broker. As provided by Business and Professions Code section 10159.2, Respondent was responsible for the supervision and control of the activities conducted on behalf of Latin Corporation by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law. These responsibilities included the supervision of the salespeople employed by Latin Corporation in the performance of acts for which a real estate license is required. Respondent's Officer license was canceled as of July 22, 1994.

4. Between the dates of May 24, 1994 and July 22, 1994, Latin Corporation was licensed by the Department as a corporate real estate broker by and through Respondent as its designated officer.

5. On February 25, 1994, Arturo Basulto ("Basulto"), a licensed real estate salesperson, entered the employ of Latin Corporation. His employment was terminated on July 23, 1994 due to the cancellation of the employing broker's license. Documents offered by Mr. Bradshaw showing a termination date in May of 1994 lacked foundation in light of contrary evidence in Basulto's license certification and Basulto's own testimony.

6. During the period Basulto was employed at Latin Corporation, he never met Respondent and was unaware Respondent was the employing broker. He never received a broker-office schedule and one was not posted in the office. He never received any type of training while employed at Latin Corporation. He was not told how to deal with customer complaints or how to handle a deposit on a transaction which failed to close.

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///

///

7. No other brokers were employed at Latin Corporation during the period of Respondent's employ. During that time period, the President of Latin Corporation was Fernando Izquierdo ("Izquierdo"). The company was managed by Luis Malaga ("Malaga"). Neither Izquierdo nor Malaga possessed a real estate broker's license. No evidence was offered to establish that Respondent had delegated signing authority to either Izquierdo or Malaga.

8. On May 21, 1994, Basulto prepared a Real Estate Purchase Contract and Deposit Receipt ("the offer"), on behalf of his client, Elsa Lopez ("Lopez") to purchase a single family home in Los Angeles from Alicia Arreola ("Arreola"). On the offer, Basulto represented that Latin Corporation had received a two thousand dollar (\$2000) deposit from Lopez. Arreola accepted the offer. The offer was not reviewed or initialed by Respondent or any Latin Corporation supervisor.

9. Lopez subsequently refused to complete the transaction after she learned someone had died in the home. Upon learning the sale would not be completed, Arreola requested the deposit from Basulto. At first, Basulto told Arreola he had returned the deposit to Lopez. He later represented to Arreola that he had never obtained the deposit. No evidence was offered as to which representation (if either) was accurate. In any event, Arreola did not recover the deposit.

#### DETERMINATION OF ISSUES

Pursuant to the foregoing findings of fact, the Administrative Law Judge makes the following determination of issues:

1. Cause exists to suspend or revoke Respondent's real estate broker's license pursuant to Business and Professions Code sections 10159.2 and 10177(h) (failure to exercise reasonable supervision and control over the activities conducted on behalf of the corporate real estate broker by its officers and employees as necessary to secure full compliance with the provisions of the Real Estate Law), as set forth in Findings 7, 8, 9, and 10.

2. While the Department's only allegation of wrongdoing was the failure of Arreola to recover the \$2000 deposit after Lopez refused to complete the transaction, that result was due to Respondent's failure to supervise Basulto's activities at Latin Corporation. Respondent's constant absence from the business and his service only as a "rent-a-broker", his failure to supervise Latin Corporation's employees, his decision not to appear at the hearing on the Accusation, and his complete lack of evidence of mitigation or rehabilitation demonstrate his disregard for the responsibilities which come with licensure as a real estate broker. Accordingly, revocation is justified in this case.

**ORDER**

WHEREFORE, THE FOLLOWING ORDER IS HEREBY MADE:

The real estate broker's license and licensing rights of  
Respondent, Fred Moreland Phelps, are revoked.

DATED: November 20, 1996

*H. Stuart Waxman*  
\_\_\_\_\_  
H. STUART WAXMAN  
Pro Tempore Administrative Law Judge  
Office of Administrative Hearings

*modified*

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Department of Real Estate  
107 So. Broadway, Room 8107  
Los Angeles, CA 90012  
(213) 897-3937

**FILED**  
OCT - 4 1996  
DEPARTMENT OF REAL ESTATE  
*[Signature]*

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of )	No. H-26131 LA
LATIN CORP.; )	
FRED MORELAND PHELPS, )	<u>STIPULATION AND AGREEMENT</u>
individually and as )	<u>IN</u>
designated officer of )	<u>SETTLEMENT AND ORDER</u>
Latin Corp.; and ARTURO BASULTO, )	
Respondents. )	

It is hereby stipulated by and between ARTURO BASULTO.  
(sometimes referred to as respondent), and the Complainant, acting  
by and through Elliott Mac Lennan, Counsel for the Department of  
Real Estate, as follows for the purpose of settling and disposing  
of the Accusation filed on April 28, 1995 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 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 2. 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 3. Respondent filed a Notice of Defense pursuant to  
8 Section 11505 of the Government Code for the purpose of requesting  
9 a hearing on the allegations in the Accusation. Respondent hereby  
10 freely and voluntarily withdraws said Notice of Defense.  
11 Respondent acknowledges that he understands that by withdrawing  
12 said Notice of Defense he thereby waives his right to require the  
13 Commissioner to prove the allegations in the Accusation at a  
14 contested hearing held in accordance with the provisions of the  
15 APA and that he will waive other rights afforded to him in  
16 connection with the hearing such as the right to present evidence  
17 in his defense and the right to cross-examine witnesses.

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

26 5. This Stipulation is based on respondent's decision  
27 not to contest the allegations set forth in the Accusation as a



1 result of the agreement negotiated between the parties. It is  
2 expressly limited to this proceeding and any further proceeding  
3 initiated by or brought before the Department of Real Estate based  
4 upon the facts and circumstances alleged in the Accusation, and  
5 made for the sole purpose of reaching an agreed disposition of  
6 this proceeding. The decision of respondent not to contest the  
7 factual statements alleged, and contained in the stipulated Order,  
8 is made solely for the purpose of effectuating this Stipulation.  
9 It is the intent and understanding of the parties that this  
10 Stipulation and Order shall not be binding or admissible against  
11 respondent in any actions against respondent by third parties.

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

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

27 /





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

6           A. The restricted license may be suspended prior to  
7 hearing by Order of the Real Estate Commissioner in the event of  
8 respondent's conviction (including conviction of a plea of nolo  
9 contendere) to a crime which bears a significant relationship to  
10 respondent's fitness or capacity as a real estate licensee.

11           B. The restricted license may be suspended prior to  
12 hearing by Order of the Real Estate Commissioner on evidence  
13 satisfactory to the Commissioner that respondent has, after the  
14 effective date of the Order herein, violated provisions of the  
15 California Real Estate Law, the Subdivided Lands Law, Regulations  
16 of the Real Estate Commissioner or conditions attaching to said  
17 restricted license.

18           C. Respondent shall obey all laws of the United States,  
19 the State of California and its political subdivisions, and shall  
20 further obey and comply with all rules and regulations of the Real  
21 Estate Commissioner.

22           D. Respondent shall, within twelve (12) months from the  
23 effective date of this Decision, present evidence satisfactory to  
24 the Real Estate Commissioner that respondent has, since the most  
25 recent issuance of an original or renewal real estate license,  
26 taken and successfully completed the continuing education  
27 requirements of Article 2.5 of Chapter 3 of the Real Estate Law



1 for renewal of a real estate license. If respondent fails to  
2 satisfy this condition, the Commissioner may order the suspension  
3 of the restricted license until the respondent presents such  
4 evidence. The Commissioner shall afford respondent the  
5 opportunity for a hearing pursuant to the Administrative Procedure  
6 Act to present such evidence.

7 E. Respondent shall not be eligible for the issuance of  
8 an unrestricted real estate license nor the removal of any of the  
9 conditions, limitations or restrictions of the restricted license  
10 until at least one (1) year has elapsed from the issuance of any  
11 restricted real estate license.

12 F. Respondent shall submit with any application for  
13 license under an employing broker, or any application for transfer  
14 to a new employing broker, a statement signed by the prospective  
15 broker which shall certify:

16 (1) That the employing broker has read the Order of the  
17 Commissioner which granted the right to a  
18 restricted license; and

19 (2) That the employing broker will exercise close  
20 supervision over the performance by the restricted  
21 licensee of the activities for which a real estate  
22 license is required.

23 G. Prior to the issuance of any restricted real estate  
24 license, respondent shall provide evidence satisfactory to the  
25 Real Estate Commissioner that he has paid Two-Thousand Dollars  
26 (\$2,000.00), to his attorney, Michael W. Binning, Esq., to be  
27



1 distributed to the buyer or seller or both according to said  
2 attorneys discretion.

3  
4 DATED: 9-5-96

elliott mac lennan  
ELLIOTT MAC LENNAN  
Counsel for Complainant

6 \* \* \* \*

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

18  
19  
20 DATED: 9-13-96

Arturo Basulto  
ARTURO BASULTO, Respondent

21  
22 DATED: 9/17/96

Michael W. Binning  
MICHAEL W. BINNING, ESQ.  
Attorney for Respondent



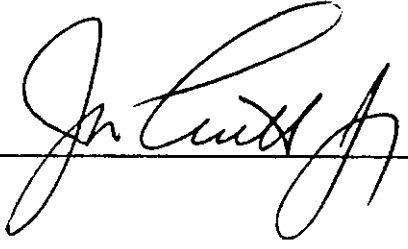
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The foregoing Stipulation and Agreement in Settlement is hereby adopted as my Decision and Order and shall become effective at 12 o' clock noon on October 24, 1996.

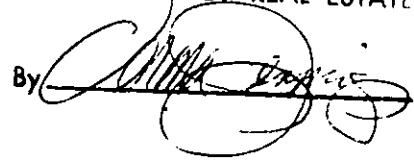
DATED: 9/30, 1996.

JIM ANTT, JR.  
Real Estate Commissioner

  
\_\_\_\_\_

**FILED**  
JUL 25 1996  
DEPARTMENT OF REAL ESTATE

DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

By 

\* \* \* \* \*

In the Matter of the Accusation of ) No. H-26131 LA  
 )  
LATIN CORP.; )  
FRED MORELAND PHELPS, )  
individually and as )  
designated officer of )  
Latin Corp.; and )  
ARTURO BASULTO, )  
 )  
Respondents. )  
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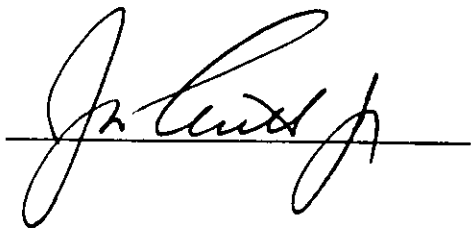
DECISION

The Proposed Decision dated April 11, 1996,  
of Randolph Brendia, Regional Manager, Department of Real  
Estate, is hereby adopted as the Decision of the Real Estate  
Commissioner in the above-entitled matter as to respondent  
LATIN CORP.

This Decision shall become effective at 12 o'clock  
noon on August 14, 1996.

IT IS SO ORDERED 6/28, 1996.

JIM ANTT, JR.  
Real Estate Commissioner



. DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \*

In the Matter of the Accusation of ) No. H-26131 LA  
 )  
LATIN CORP.; )  
FRED MORELAND PHELPS, )  
individually and as )  
designated officer of )  
Latin Corp.; and )  
ARTURO BASULTO, )  
 )  
Respondents. )  
\_\_\_\_\_ )

PROPOSED DECISION

This matter was presided over by Randolph Brendia, Regional Manager, Department of Real Estate, as the designee of the Real Estate Commissioner in Los Angeles, California, on April 11, 1996.

Elliott MacLennan, Counsel, represented the Complainant.

No personal appearance was made by or on behalf of respondent LATIN CORP.

On proof of compliance with Government Code Section 11505, the matter proceeded as a default pursuant to Government Code Section 11520 against respondent LATIN CORP. Notices of Defense were filed by FRED MORELAND PHELPS (Phelps) and ARTURO BASULTO (Basulto) and they are severed from this matter.

The following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

The Complainant, Steven J. Ellis, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California, made the Accusation against LATIN CORP (hereinafter Respondent).

II

Respondent is presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

III

All references to the "Code" are to the California Business and Professions Code.

IV

At all mentioned times, LATIN was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker by and through Phelps as designated officer.

V

At all mentioned times, Phelps was licensed by the Department as designated officer of LATIN to qualify it and to act for it as a real estate broker.

VI

At all times material, Basulto was and now is licensed by the Department as a real estate salesperson. He was employed by LATIN between February 25, 1994, and July 22, 1994.

VII

At all mentioned times, LATIN and Basulto were acting as the agent or employee of the other and within the course and scope of such agency or employment.

VIII

At all times herein mentioned, in the city of Los Angeles, Los Angeles County, Respondent and its agents, including Basulto, engaged in the business of a corporate real estate broker within the meaning of Section 10131(a) of the Code in wherein, on behalf of others and for compensation or in expectation of compensation, Respondent sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the purchase, sale or exchange of real property.

IX

On May 21, 1994, Respondent through its agent Basulto, prepared a Deposit Receipt on behalf of Elsa Lopez (Lopez) as her agent to purchase real property commonly described as 2301 East 108 Street in Los Angeles. The Deposit Receipt stated that Respondent had received a deposit of Two Thousand Dollars (\$2,000.00) from Lopez.

X

Alicia Arreola (Arreola), the seller, accepted the offer, relying on the representations of Respondent and its agent that it had received the deposit described in Finding IX. Whereas, in truth and in fact, no such deposit had ever been received by Respondent. Thereafter, the sale was cancelled.

DETERMINATION OF ISSUES

1.

The acts and omissions of Respondent, as set forth above, constitutes making a misrepresentation or omission of a material fact and is cause for the suspension or revocation of the license and license rights of LATIN CORP. pursuant to Business and Professions Code Section 10176(a).

2.

The standard of proof applied at the hearing was clear and convincing proof to a reasonable certainty.

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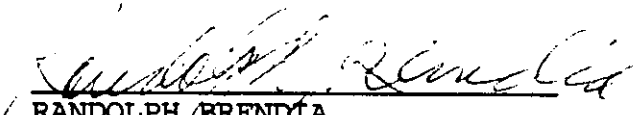
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ORDER

The license and license rights of respondent LATIN CORP. under the provisions of Part 1 of Division 4 of the Business and Professions Code are hereby revoked.

Dated: April 11, 1996.

  
RANDOLPH BRENDIA  
Regional Manager  
Department of Real Estate

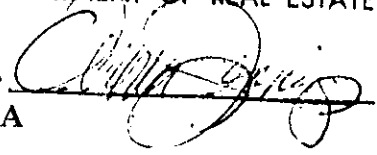
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BEFORE THE DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

**FILED**  
AUG 15 1996  
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of )  
 )  
LATIN CORP., et al., )  
 )  
Respondents. )

Case No. H-26131 LA  
OAH No. L-9607274

By 

**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 West First Street, Los Angeles, California, on **November 8, 1996**, at the hour of **9:00 a.m.**, 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.

Dated: August 15, 1996.

cc: Fred Moreland Phelps  
Arturo Basulto  
Michael W. Binning, Esq.  
Mitchell R. King  
Sacto.  
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DEPARTMENT OF REAL ESTATE

  
ELLIOTT MAC LENNAN, Counsel

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ELLIOTT MAC LENNAN, Counsel  
Department of Real Estate  
107 South Broadway, Room 8107  
Los Angeles, California 90012

(213) 897-3937

**FILED**  
APR 28 1995  
DEPARTMENT OF REAL ESTATE

By 

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \* \* \*

In the Matter of the Accusation of	)	
	)	
LATIN CORP.;	)	No. H-26131 LA
FRED MORELAND PHELPS,	)	
individually and as	)	<b>A C C U S A T I O N</b>
designated officer of	)	
Latin Corp.; and	)	
ARTURO BASULTO,	)	
	)	
Respondents.	)	

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The Complainant, Peter F. Hurst, a Deputy Real Estate Commissioner of the State of California, for cause of accusation against LATIN CORP.; FRED MORELAND PHELPS, individually and as designated officer of Latin Corp.; and ARTURO BASULTO is informed and alleges in his official capacity as follows:

I

LATIN CORP. (LATIN), FRED MORELAND PHELPS (PHELPS) and ARTURO BASULTO (BASULTO), sometimes collectively referred to as respondents, are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code).

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II

All references to the "Code" are to the California Business and Professions Code.

III

At all mentioned times, LATIN was licensed by the Department of Real Estate of the State of California (Department) as a corporate real estate broker by and through PHELPS as designated officer.

IV

At all mentioned times, PHELPS was licensed by the Department as designated officer of LATIN to qualify it and to act for it as a real estate broker and, as provided by Section 10159.2 of the Code, was responsible for the supervision and control of the activities conducted on their behalf by their officers, managers and employees as necessary to secure full compliance with the provisions of the Real Estate Law including the supervision of the salespeople licensed to the corporation in the performance of acts for which a real estate license is required by Section 10159.2 of the Code.

V

At all times material, BASULTO was and now is licensed by the Department as a real estate salesperson. BASULTO was employed by LATIN between February 25, 1994, and July 22, 1994.

VI

Whenever reference is made in an allegation in the Accusation to an act or omission of LATIN, such allegation shall be deemed to mean that the officers, directors, managers,

1 employees, agents and real estate licensees employed by or  
2 associated with LATIN, including PHELPS and BASULTO, committed  
3 such act or omission while engaged in the furtherance of the  
4 business or operation of LATIN and while acting within the course  
5 and scope of its corporate authority, agency and employment.

6 VII

7 At all mentioned times, LATIN, PHELPS and BASULTO were  
8 acting as the agent or employee of the other and within the course  
9 and scope of such agency or employment.

10 VIII

11 At all times herein mentioned, in the city of Los  
12 Angeles, Los Angeles County, respondent LATIN and respondent  
13 PHELPS engaged in the business of a corporate real estate broker  
14 and respondent PHELPS, a real estate broker, within the meaning of  
15 Section 10131(a) of the Code in that they operated a real estate  
16 business with the public wherein, on behalf of others and for  
17 compensation or in expectation of compensation, respondents sold  
18 or offered to sell, bought or offered to buy, solicited  
19 prospective sellers or purchasers of, solicited or obtained  
20 listings of, or negotiated the purchase, sale or exchange of real  
21 property.

22 IX

23 On May 21, 1994, BASULTO prepared a Real Estate  
24 Purchase Contract and Deposit Receipt (the offer) on behalf of  
25 Elsa Lopez (Lopez) as her agent to purchase the real property  
26 commonly described as 2301 East 108th Street in Los Angeles. On  
27 this offer, LATIN and its agent, BASULTO, represented that they

1 had received a deposit of Two-Thousand Dollars (\$2,000.00) from  
2 Lopez.

3 X

4 Based on the representations of LATIN and BASULTO,  
5 Alicia Arreola (Arreola), the seller, accepted the offer. Later,  
6 Lopez changed her mind and the sale failed to close. Arreola  
7 asked BASULTO for the deposit. BASULTO informed her that he had  
8 returned the deposit money to Lopez. At a later date, respondents  
9 stated they never actually received the \$2,000.00 from Lopez.

10 XI

11 The conduct of respondents LATIN and BASULTO in  
12 misrepresenting to Arreola that they had received the \$2,000.00  
13 deposit of Lopez only later to assert that they never received it,  
14 as described in Paragraphs IX and X herein above, constitutes a  
15 violation of Section 10176(a) of the Code. This conduct and  
16 violation are cause to suspend or revoke the real estate licenses  
17 and license rights of respondents LATIN and BASULTO under Section  
18 10176(a) of the Code.

19 XII

20 The conduct of respondents LATIN and BASULTO, as  
21 described in Paragraphs IX and X herein above, constitutes fraud  
22 and/or dishonest dealing. This conduct and violation are cause to  
23 suspend or revoke the real estate licenses and license rights of  
24 respondents LATIN and BASULTO pursuant to Section 10176(i) of the  
25 Code.

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XIII

The conduct of BASULTO if he ever did receive \$2,000.00 from the buyer, as described in Paragraphs IX and X, and then failing to deliver said \$2,000.00 to PHELPS, is in violation of Section 10145(c) of the Code and is a basis for the suspension or revocation of BASULTO's license and license rights pursuant to Section 10177(d) of the Code.

XIV

The conduct of respondent PHELPS, as described in Paragraphs IX through XIII herein above, during the time that PHELPS was the designated officer of LATIN, constitutes a failure by respondent PHELPS to exercise reasonable supervision of the activities of respondent BASULTO which require a real estate license and constitutes a violation of Section 10159.2 of the Code. Said conduct is cause to suspend or revoke the real estate licenses and license rights of respondent PHELPS under Section 10177(h) of the Code.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations made by the Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of respondents LATIN CORP.; FRED MORELAND PHELPS, individually and as designated officer of Latin Corp.; and ARTURO BASULTO under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California  
this 28th day of April, 1995.

  
Deputy Real Estate Commissioner

cc: Latin Corp.  
Fred Moreland Phelps  
Arturo Basulto  
Sacto.  
DMH