

FILED
AUG 17 2000

DEPARTMENT OF REAL ESTATE

By Juan R. ...

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
MARCO DIAZ,)	No. H-27177 LA
Respondent.)	

ORDER GRANTING REINSTATEMENT OF LICENSE

On April 1, 1998, an Order was rendered herein revoking the real estate salesperson license of Respondent, but granting Respondent the right to the issuance of a restricted real estate salesperson license. A restricted real estate salesperson license was issued to Respondent on April 28, 1998, and Respondent has operated as a restricted licensee without cause for disciplinary action against Respondent.

On May 25, 1999, 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.

///

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

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

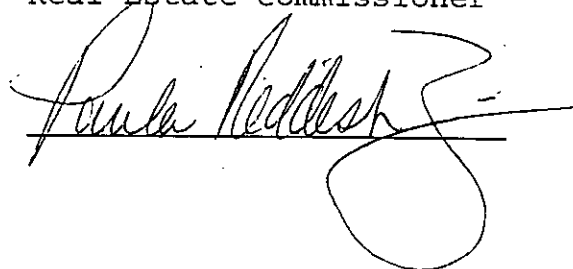
13 1. Submittal of a completed application and payment of
14 the fee for a real estate salesperson license.

15 2. Submittal of evidence of having, since the most
16 recent issuance of an original or renewal real estate license,
17 taken and successfully completed the continuing education
18 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
19 for renewal of a real estate license.

20 This Order shall be effective immediately.

21 DATED: July 12, 2000

23 PAULA REDDISH ZINNEMANN
24 Real Estate Commissioner

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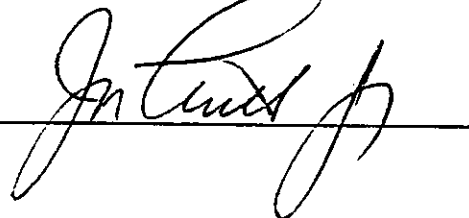
IT IS HEREBY ORDERED that Respondent JOHNNY AQUINO
QUERIMIT's petition for voluntary surrender of his real estate
broker license is accepted as of the effective date of this Order
as set forth below, based upon the understanding and agreement
expressed in Respondent's Declaration dated February 24, 1998
(attached as Exhibit "A" hereto).

IT IS ALSO ORDERED that Respondent's license
certificate(s), pocket card(s) and all branch office license
certificates be sent to the below-listed address so that they
reach the Department on or before the effective date of the Order:

Department of Real Estate
Attn: Licensing Flag Section
P.O. Box 187000
Sacramento, California 95818-7000

This order shall become effective at 12 o'clock noon on
May 14, 1998.

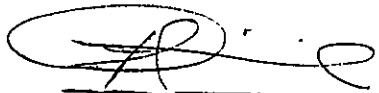
DATED: 4/15, 1998.

JIM ANTT, JR.
Real Estate Commissioner


1 The filing of my petition shall be deemed to be an
2 understanding and agreement by me that upon acceptance by the
3 Commissioner, as evidence by an appropriate order, all affidavits
4 and all relevant evidence obtained in the investigation prior to
5 the acceptance and all allegations contained in the Accusation
6 filed in Department of Real Estate Case No. H-27353/27177 LA may
7 be considered by the Department to be true and correct for the
8 purpose of deciding whether or not to grant reinstatement of my
9 license.

10 I declare under penalty of perjury under the laws of
11 the State of California that the above is true and correct.

12 DATED: 2/24/98

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15 JOHNNY AQUINO QUERIMIT

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

FILED
APR - 8 1998

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JOHNNY AQUINO QUERIMIT,)
13 doing business as Premier)
14 Home Mortgage and MARCO DIAZ,)
15 Respondents.)

NO. H-27177 LA
L-1997070132

STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between MARCO DIAZ
17 (sometimes referred to herein as "Respondent") and the
18 Complainant, acting by and through Darlene Averetta, Counsel
19 for the Department of Real Estate, as follows for the purpose
20 of settling and disposing of the Accusation filed on May 28,
21 1997, in this matter:

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



1 Stipulation and Agreement.

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

6 3. On June 27, 1997, Respondent filed a Notice of
7 Defense pursuant to Section 11506 of the Government Code for
8 the purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that he
11 understands that by withdrawing said Notice of Defense, he will
12 thereby waive his right to require the Commissioner to prove
13 the allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA and that he will waive
15 other rights afforded to him in connection with the hearing, such
16 as the right to present evidence in defense of the allegations in
17 the Accusation and the right to cross-examine witnesses.

18 4. This Stipulation and Agreement ("Stipulation") is
19 based on the factual allegations contained in the Accusation filed
20 in this proceeding. In the interest of expedience and economy,
21 Respondent chooses not to contest these factual allegations, but
22 to remain silent and understand that, as a result thereof, these
23 factual statements, without being admitted or denied, will serve
24 as a prima facie basis for the disciplinary action stipulated to
25 herein. This Stipulation and Respondent's decision not to contest
26 the Accusation are hereby expressly limited to this proceeding and
27 made for the sole purpose of reaching an agreed disposition of



1 this proceeding. Respondent's decision not to contest the factual
2 allegations is made solely for the purpose of effectuating this
3 Stipulation and is intended by Respondent to be non-binding upon
4 him in any actions against Respondent by third parties. The Real
5 Estate Commissioner shall not be required to provide further
6 evidence to prove such allegations.

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

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

23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations and waivers and
25 solely for the purpose of settlement of the pending Accusation
26 without a hearing, it is stipulated and agreed that the following
27 determination of issues shall be made.



1 The conduct, acts and/or omissions of MARCO DIAZ, as
2 set forth in the Accusation, constitute cause to suspend or revoke
3 the real estate license and license rights of Respondent MARCO
4 DIAZ under the provisions of Business and Professions Code Section
5 10177(d) for violation of Code Section 10130.

6 ORDER

7 WHEREFORE, THE FOLLOWING ORDER is hereby made:

8 The real estate license and license rights of Respondent
9 MARCO DIAZ, under the provisions of Part 1 of Division 4 of the
10 California Business and Professions Code, are revoked; provided,
11 however:

12 A restricted real estate salesperson license shall be
13 issued to Respondent MARCO DIAZ pursuant to the provisions of Code
14 Section 10156.5, if Respondent MARCO DIAZ makes application
15 therefor and pays to the Department of Real Estate the appropriate
16 fee for the restricted license within 90 days from the effective
17 date of this Decision. The restricted license issued to
18 Respondent shall be subject to all of the provisions of Code
19 Section 10156.7, and to the following limitations, conditions and
20 restrictions imposed under authority of Section 10156.6 of that
21 Code:

22 1. The restricted license issued to Respondent MARCO
23 DIAZ shall not confer any property right in the privileges to be
24 exercised thereunder. Said restricted license and any privileges
25 granted thereunder may be suspended prior to hearing by Order of
26 the Real Estate Commissioner in the event of:

27 ///



1 (a) Respondent's conviction (including a plea of
2 nolo contendere) to a crime which is substantially related to
3 Respondent's qualifications, functions, duties, fitness or
4 capacity as a real estate licensee.

5 (b) The receipt of evidence satisfactory to the
6 Real Estate Commissioner that Respondent has violated provisions
7 of the California Real Estate Law, the Subdivided Lands Law,
8 Regulations of the Real Estate Commissioner, or the conditions
9 attaching to this restricted license.

10 2. Respondent shall not be eligible to apply for the
11 issuance of an unrestricted real estate license nor for the
12 removal of any of the conditions, limitations or restrictions
13 attaching to the restricted license until one (1) year has elapsed
14 from the date of issuance of this Decision.

15 3. Respondent shall submit with any application for
16 license under an employing broker, or any application for transfer
17 to a new employing broker, a statement signed by the prospective
18 employing broker on a form approved by the Department of Real
19 Estate which shall certify:

20 (a) That the employing broker has read the
21 Decision of the Commissioner which granted the right to a
22 restricted license; and

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

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

13 DATED: March 9, 1998

Darlene Averetta
DARLENE AVERETTA
Complainant's Counsel

* * *

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

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1 DATED:

2-26-98

MARCO DIAZ
Respondent

Marco Diaz

* * *

3
4 The foregoing Stipulation and Agreement is hereby
5 adopted as my Decision in this matter and shall become effective
6 at 12 o'clock noon on April 28, 1998.

7
8 IT IS SO ORDERED 4/1, 1998.

9 JIM ANTT, JR.
Real Estate Commissioner

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11 *J. Antt Jr.*
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Flay

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL 15 1997
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
)
JOHNNY AQUINO QUERIMIT,)
et al.,)
)
Respondents.)

Case No. H-27177 LA
OAH No. L-1997070132

[Handwritten signature]

NOTICE OF HEARING ON ACCUSATION

To the above-named Respondents:

You are hereby notified that a hearing will be held before the Department of Real Estate, at Office of Administrative Hearings, 107 South Broadway, 2nd Floor, Los Angeles, California, on March 4 and 5, 1998, 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: July 15, 1997.

cc: Johnny Aquino Querimit
Marco Diaz
Charles E. Mashburn, Esq.
Sacto.
OAH

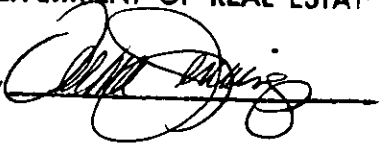
DEPARTMENT OF REAL ESTATE

[Handwritten signature: Darlene Averetta]
DARLENE AVERETTA, Counsel

SP-10
File

1 DARLENE AVERETTA, Counsel
2 Department of Real Estate
3 107 South Broadway, Room 8107
4 Los Angeles, California 90012
5
6 (213) 897-3937
7
8

FILED
MAY 28 1997
DEPARTMENT OF REAL ESTATE

By 

9 DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * * * *

12 In the Matter of the Accusation of)	No. H-27177 LA
)	
13 JOHNNY AQUINO QUERIMIT,)	<u>ACCUSATION</u>
14 doing business as Premier)	
Home Mortgage and MARCO DIAZ,)	
)	
15 Respondent.)	

16 The Complainant, Thomas McCrady, a Deputy Real Estate
17 Commissioner of the State of California, for cause of Accusation
18 against JOHNNY AQUINO QUERIMIT doing business as Premier Home
19 Mortgage and MARCO DIAZ, is informed and alleges in his official
20 capacity as follows:

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2.

JOHNNY AQUINO QUERIMIT doing business as Premier Home Mortgage (hereinafter "QUERIMIT"), and MARCO DIAZ (hereinafter "DIAZ"), 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 (hereinafter "Code").

3.

At all times material herein, QUERIMIT was licensed by the Department of Real Estate of the State of California (hereinafter "Department") as a real estate broker.

4.

DIAZ was originally licensed by the Department as a real estate salesperson effective March 27, 1990. DIAZ' license expired March 26, 1994, and was not renewed until November 15, 1996.

5.

All further references to "QUERIMIT", includes the party identified in Paragraphs 2 and 3, above, and also includes the employees, agents and real estate licensees employed by or associated with said party, who at all times material herein were engaged in the furtherance of the business or operations of said party and who were acting within the course and scope of their authority, agency or employment.

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6.

At all times material herein, QUERIMIT and DIAZ 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 Code Sections 10131(a) and/or 10131(d), for another or others, for or in expectation of compensation. Said activity included the operation and conduct of:

(a) a real estate sale business with the public, wherein they 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 or a business opportunity;

(b) a mortgage loan brokerage business with the public wherein they solicited borrowers or lenders for, or negotiated or serviced loans, secured by a lien on real property or a business opportunity.

7.

In connection with the above-described activities, QUERIMIT engaged in the business of, acted in the capacity of, advertised, or assumed to act as escrow holder, servicer and/or agent, and thereby acted or assumed to act under the exemption from the provisions of the Escrow Law as provided by Section 17006(a)(4) of the California Financial Code.

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8.

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2 At all times material herein, in connection with the
3 activities described in Paragraphs 6 and 7, above, QUERIMIT
4 accepted or received funds including funds in trust (hereinafter
5 "trust funds") from or on behalf of actual and prospective parties
6 to transactions handled by R QUERIMIT and thereafter made deposits
7 and/or disbursements of such funds. From time to time herein
8 mentioned, said trust funds were deposited and/or maintained by
9 QUERIMIT in bank accounts, including but not necessarily limited
10 to Account Number 682-265949, "#1 Los Angeles Real Estate, Inc.
11 Trust Account" ("Account 1"), at Metrobank 21535 Hawthorne Blvd.,
12 Torrance, California, and Account Number 002-113740, "#1 Los
13 Angeles Real Estate, Inc. DBA Week Escrow" ("Account 2"), at City
14 National Bank, 2029 Century Park East, B Level, Los Angeles,
15 California.

16 FIRST CAUSE OF ACCUSATION

17 (Audit Findings)

18 9.

19 On or about July 19, 1996, the Department completed an
20 examination of QUERIMIT's books and records, pertaining to the
21 activities described in Paragraphs 6 through 8, above, covering a
22 period from approximately November 1, 1995 through May 31, 1996,
23 which examination revealed violations of the Code and of Title 10,
24 Chapter 6, California Code of Regulations ("Regulations"), as set
25 forth below.

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10.

In the course of activities described in Paragraphs 6 through 8, above, and during the examination period described in Paragraph 9, QUERIMIT acted in violation of the Code and the Regulations as follows.

11.

(a) As of May 31, 1996, the Account 1 and Account 2 had a combined shortage in the amount of approximately Eight Hundred Twenty-Seven Dollars and Twenty-One Cents (\$827.21). QUERIMIT caused, permitted and/or allowed the withdrawal or disbursement of trust funds from the Trust Accounts, without the prior written consent of every principal who then was an owner of funds in the accounts, thereby reducing the balance of funds in the said accounts to an amount less than the existing aggregate trust fund liability of the broker to all owners of said trust funds, in violation of Code Section 10145 and Regulation 2832.1.

(b) QUERIMIT conducted his sales and escrow activities under #1 Los Angeles Real Estate, Inc., an unlicensed corporation, in violation of Code Section 10130.

(c) QUERIMIT deposited, allowed, permitted and/or caused the deposit of trust funds into the Account 1 and Account 2, which accounts were not in the broker's name as trustee, and Account 2 was not designated as a trust account, in violation of Regulation 2830.

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1 (d) QUERIMIT caused, permitted and/or allowed Yolanda
2 Espinosa and Edith Leanos, who were neither licensed by the
3 Department nor covered by a fidelity bond, to be signatories on
4 Account 1 and Account 2, in violation of Regulation 2834.

5 (e) QUERIMIT failed to advise borrowers, (including
6 but not necessarily limited to Villegas/Escrow # 960088,
7 Rosales/Escrow # 950049, and Gonzalez/Escrow # 960063), in
8 writing, that he had a financial interest as an escrow holder
9 in the transactions, in violation of Regulation 2950(h).

10 (f) Mortgage loan disclosure statements were not signed
11 by the borrowers of the loan agent, for loan files including but
12 not necessarily limited to, Sebastian Ruiz, Angel Alvarado and
13 Jose Loreda, in violation of Code Section 10240 and Regulation
14 2842.5.

15 (g) QUERIMIT failed to review, initial and date every
16 instrument prepared or signed by salespersons in his employ, in
17 connection with transactions for which a real estate license is
18 required, which may have had a material effect upon the rights or
19 obligations of a party to the transaction; or if QUERIMIT
20 delegated said acts to a broker or a salesperson, he failed to
21 make certain that said review was properly completed, in violation
22 of Regulation 2725.

23 (h) QUERIMIT failed to notify the Real Estate
24 Commissioner of the employment and termination of employment, of
25 salespersons, in violation of Code Section 10161.8 and Regulation
26 2752.

27



1 (i) QUERIMIT failed to maintain a complete columnar
2 records of all trust funds received and disbursed, in violation
3 of Regulation 2831.

4 (j) QUERIMIT failed to deposit all funds received
5 in trust into the hands of the owner of the funds, into a neutral
6 escrow depository or into a trust fund account not later than the
7 next business day following receipt of the trust funds; and
8 earnest money deposits were held beyond the dates authorized by
9 the parties, in violation of Code Section 10145 and Regulation
10 2832.

11 12.

12 The conduct, acts and/or omissions of Respondent
13 as described in Paragraph 11, above, violated the Code and the
14 Regulations as set forth below:

15	<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
16	11(a)	Code Section 10145 and Regulation 2832.1
17	11(b)	Code Section 10130
18	11(c)	Regulation 2830
19	11(d)	Regulation 2834
20	11(e)	Regulation 2950(h)
21	11(f)	Code Section 10240 and Regulation 2842.5
22	11(g)	Regulation 2725
23	11(h)	Code Section 10161.8 and Regulation 2752
24	11(i)	Regulation 2831
25	11(j)	Code Section 10145 and Regulation 2832
26		
27		



1 Each of the foregoing violations constitutes cause for the
2 suspension or revocation of QUERIMIT's real estate licenses and
3 license rights, under the provisions of Code Section 10165 and/or
4 10177(d).

5 13.

6 In the course of the activities described in Paragraphs
7 6 through 8, above, and during a period of time in the past three
8 years, QUERIMIT employed and/or compensated DIAZ, who at the time
9 was not licensed by the Department, and one, Juan Llanes, who was
10 not licensed by the Department, to perform acts requiring a real
11 estate license as described in Code Sections 10131(a) and/or
12 10131(d). QUERIMIT knew or should have known that DIAZ and Juan
13 Llanes were not licensed by the Department.

14 14.

15 The conduct, acts and/or omissions of QUERIMIT,
16 described in Paragraph 13 above, constitutes cause for the
17 suspension or revocation of QUERIMIT's real estate licenses
18 and license rights of under the provisions of Code Section 10137.

19 SECOND CAUSE OF ACCUSATION

20 (Violation of Code Section 10130)

21 15.

22 Complainant incorporates herein the allegations of
23 Paragraphs 1 through 14, inclusive, herein above.

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of the Accusation and, that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of JOHNNY AQUINO QUERIMIT doing business as Premier Home Mortgage and MARCO DIAZ 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 May, 1997.


Deputy Real Estate Commissioner

cc: Johnny Aquino Querimit
Marco Diaz
LA Audit Section
Sacto.
MLB