

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

4 Telephone (213) 897-3937

FILED
JUL 20 1999
DEPARTMENT OF REAL ESTATE

By J. Mederholt

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No. H- 27849 LA
12 CASABLANCA GROUP, INC., PRESIDENTE)
13 MORTGAGE, INC., ALL CASA REALTY GROUP,) STIPULATION AND
14 INC. and ERNESTO A. DIAZ (aka, "Ernesto) AGREEMENT IN
15 Alonso Diaz"), individually, and as) SETTLEMENT
16 designated officer for CASABLANCA GROUP,)
17 INC., PRESIDENTE MORTGAGE, INC., and ALL)
18 CASA REALTY GROUP, INC.,)
19 Respondents.)

20 It is hereby stipulated by and between ERNESTO A. DIAZ
21 (hereinafter, "DIAZ"), and ALL CASA REALTY GROUP, INC.
22 (hereinafter, "ALL CASA,"), Respondents, acting by and through
23 Michael A. Lanphere, Tredway, Lumsdaine & Doyle, LLP, Counsel for
24 all Respondents, and the Complainant, acting by and through Martha
25 J. Rosett, Counsel for the Department of Real Estate, as follows
26 for the purpose of settling and disposing of the Accusation filed
27 on September 17, 1998 in this matter:

1. All issues contested and all evidence to be
presented by Complainant and Respondents at a formal hearing on

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

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

9 3. A pre-hearing and mandatory settlement conference
10 was held in the above-referenced matter on February 25, 1999,
11 before Stuart Waxman, Administrative Law Judge of the Office of
12 Administrative Hearings, in Los Angeles, California. Respondent
13 ERNESTO DIAZ appeared personally and was represented by Michael A.
14 Lanphere, attorney at law. Respondents CASABLANCA GROUP, INC.,
15 (hereinafter, "CASABLANCA,") PRESIDENTE MORTGAGE, INC.
16 ("PRESIDENTE") and ALL CASA REALTY ("ALL CASA") were also
17 represented by Respondent DIAZ and Michael A. Lanphere.
18 Complainant was represented by Martha J. Rosett, Counsel.

19 4. This Stipulation and Agreement is based on the
20 factual allegations contained in the Accusation filed in this
21 proceeding. In the interest of expedience and economy,
22 Respondents choose not to litigate these allegations at a formal
23 administrative hearing, but to remain silent and understand that,
24 as a result thereof, these factual allegations, without being
25 admitted or denied, will serve as a prima facie basis for the
26 disciplinary action stipulated to herein. This Stipulation and
27 Agreement and Respondents' decision not to contest the Accusation

1 are hereby expressly limited to this proceeding and made for the
2 sole purpose of reaching an agreed disposition of this proceeding.
3 Respondents' decision not to contest the factual allegations at a
4 formal administrative hearing is made solely for the purpose of
5 effectuating this Stipulation and Agreement and is intended to be
6 non-binding upon them in any actions against Respondents by third
7 parties. The Real Estate Commissioner shall not be required to
8 provide further evidence to prove said factual allegations.

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

19 6. The Order or any subsequent Order of the Real Estate
20 Commissioner made pursuant to this Stipulation and Agreement shall
21 not constitute an estoppel, merger or bar to any further
22 administrative proceedings by the Department of Real Estate with
23 respect to any matters which were not specifically alleged to be
24 causes for accusation in this proceeding. Provided, however, that
25 the Department of Real Estate cannot bring any further action or
26 proceeding against Respondents, with respect to the issues raised
27 in the Accusation.



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1 reasonable supervision and control over the licensed activities of
2 CASABLANCA, PRESIDENTE and ALL CASA, as required by Code Section
3 10159.2. Said conduct is cause to suspend, or revoke the real
4 estate license and license rights of Respondent DIAZ pursuant to
5 the provisions of Code Sections 10177(d) and 10177(h). and

6 ORDER

7 WHEREFORE, THE FOLLOWING ORDERS are hereby made:

8 1. AS TO RESPONDENT ALL CASA:

9 All real estate licenses and licensing rights of
10 Respondent ALL CASA under the provisions the Real Estate Law are
11 suspended for a period of ninety (90) days from the effective date
12 of this Decision; provided, however, that if Respondent petitions,
13 thirty (30) days of the suspension imposed upon ALL CASA shall be
14 permanently stayed upon the condition that:

15 1. Respondent ALL CASA pay a monetary penalty
16 pursuant to Section 10175.2 of the California
17 Business and Professions Code, in the amount of \$100
18 per day, for a total of Three-Thousand Dollars
19 (\$3,000).

20 2. Said payment shall be in the form of a
21 cashier's check or certified check made payable to
22 the Recovery Account of the Real Estate Fund. Said
23 check must be delivered to the Department prior to
24 the effective date of the Decision in this matter.

25 3. If Respondent fails to pay the monetary
26 penalty in accordance with the terms and conditions
27 of the Decision, the Commissioner may, without a



1 hearing, order the immediate execution of all or any
2 part of the stayed suspension in which event the
3 Respondent shall not be entitled to any repayment
4 nor credit, prorated or otherwise, for money paid to
5 the Department under the terms of this Decision.

6 The remaining sixty (60) days of the suspension imposed
7 upon ALL CASA shall be stayed for a period of two years, subject
8 to the following terms and conditions:

- 9 1. Respondent shall obey all laws, rules and
10 regulations governing the rights, duties and
11 responsibilities of a real estate licensee in the State
12 of California; and
- 13 2. That no final subsequent determination be made,
14 after hearing or upon stipulation, that cause for
15 disciplinary action occurred within two (2) years of the
16 effective date of this Decision. Should such a
17 determination be made, the Commissioner may, in his
18 discretion, vacate and set aside the stay order and
19 reimpose all or a portion of the stayed suspension.
20 Should no such determination be made, the stay imposed
21 herein shall become permanent.
- 22 3. Pursuant to Section 10148 of the Business and
23 Professions Code, Respondent shall pay the
24 Commissioner's reasonable cost for an audit to determine
25 if Respondent has corrected the trust fund violation(s)
26 found in Paragraph I of the Determination of Issues. In
27 calculating the amount of the Commissioner's reasonable

1 cost, the Commissioner may use the estimated average
2 hourly salary for all persons performing audits of real
3 estate brokers, and shall include an allocation for
4 travel costs, including mileage, time to and from the
5 auditor's place of work and per diem. Respondent shall
6 pay such cost within 45 days of receiving an invoice
7 from the Commissioner detailing the activities performed
8 during the audit and the amount of time spent performing
9 those activities. The Commissioner may, in his
10 discretion, vacate and set aside the stay order, if
11 payment is not timely made as provided for herein, or as
12 provided for in a subsequent agreement between the
13 Respondent and the Commissioner. The vacation and the
14 set aside of the stay shall remain in effect until
15 payment is made in full, or until Respondent enters into
16 an agreement satisfactory to the Commissioner to provide
17 for payment. Should no order vacating the stay be
18 issued, either in accordance with this condition or the
19 conditions set forth above, the stay imposed herein
20 shall become permanent.

21 2. AS TO RESPONDENT ERNESTO A. DIAZ:

22 All licenses and licensing rights of Respondent ERNESTO
23 A. DIAZ under the Real Estate Law are revoked; provided, however,
24 a restricted real estate broker license shall be issued to
25 Respondent pursuant to Section 10156.5 of the Business and
26 Professions Code if Respondent makes application therefor and pays
27



1 to the Department of Real Estate the appropriate fee for the
2 restricted license within 90 days from the effective date of this
3 Decision. The restricted license issued to Respondent shall be
4 subject to all of the provisions of Section 10156.7 of the
5 Business and Professions Code and to the following limitations,
6 conditions and restrictions imposed under authority of Section
7 10156.6 of that Code:

8 1. The restricted license issued to Respondent may be
9 suspended prior to hearing by Order of the Real Estate
10 Commissioner in the event of Respondent's conviction or
11 plea of nolo contendere to a crime which is
12 substantially related to Respondent's fitness or
13 capacity as a real estate licensee.

14 2. The restricted license issued to Respondent may be
15 suspended prior to hearing by Order of the Real Estate
16 Commissioner on evidence satisfactory to the
17 Commissioner that Respondent has violated provisions of
18 the California Real Estate Law, the Subdivided Lands
19 Law, Regulations of the Real Estate Commissioner or
20 conditions attaching to the restricted license.

21 3. Respondent shall not be eligible to apply for the
22 issuance of an unrestricted real estate license nor for
23 the removal of any of the conditions, limitations or
24 restrictions of a restricted license until one (1) year
25 has elapsed from the effective date of this Decision.

26 4. Respondent shall, within nine months from the
27 effective date of this Decision, present evidence



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

13 5. Respondent shall, within six months from the
14 effective date of this Decision, take and pass the
15 Professional Responsibility Examination administered by
16 the Department including the payment of the appropriate
17 examination fee. If Respondent fails to satisfy this
18 condition, the Commissioner may order suspension of
19 Respondent's license until Respondent passes the
20 examination.

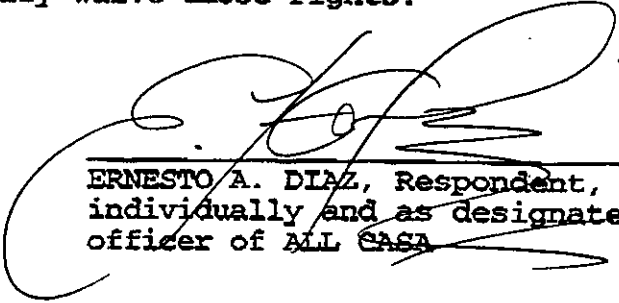
21
22 DATED: 5/3/99

Martha J. Rosett
23 MARTHA J. ROSETT
24 Counsel for Complainant
25 /
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27 /

* * *

We have read the Stipulation and Agreement, have discussed it with our counsel, and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those rights.

DATED: April 27, 1999


 ERNESTO A. DIAZ, Respondent,
 individually and as designated
 officer of ALL CASA

DATED: _____

 MICHAEL A. LANPHERE, Counsel for
 Respondents

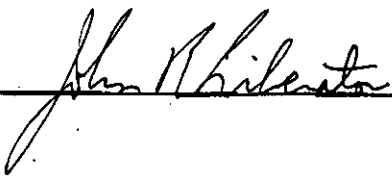
* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on August 10, 1999.

IT IS SO ORDERED

July 14, 1999

JOHN R. LIBERATOR,
 Acting Real Estate Commissioner



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We have read the Stipulation and Agreement, have discussed it with our counsel, and its terms are understood by us and are agreeable and acceptable to us. We understand that we are waiving rights given to us by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and we willingly, intelligently and voluntarily waive those rights.

DATED: April 27, 1999

ERNESTO A. DIAZ, Respondent,
individually and as designated
officer of M.L. SAGA

DATED: 4-30-99

MICHAEL A. LANPHERE, Counsel for
Respondents

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on _____.

IT IS SO ORDERED _____.

JOHN R. LIBERATOR,
Acting Real Estate Commissioner

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FILED
JUL 20 1999
DEPARTMENT OF REAL ESTATE
By K. Wrederhold

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of	)	No. H- 27849 LA
CASABLANCA GROUP, INC., PRESIDENTE	)	<u>ORDER ACCEPTING</u>
MORTGAGE, INC., ALL CASA REALTY	)	<u>VOLUNTARY SURRENDER</u>
GROUP, INC. and ERNESTO A.DIAZ (aka,	)	<u>OF RESPONDENT</u>
"Ernesto Alonso Diaz"), individually,	)	<u>CASABLANCA GROUP,</u>
and as designated officer for	)	<u>INC.</u>
CASABLANCA GROUP, INC., PRESIDENTE)	
MORTGAGE, INC., and ALL CASA REALTY)	
GROUP, INC.,)	
)	
)	
Respondents.)	

ORDER ACCEPTING VOLUNTARY SURRENDER OF CORPORATE REAL ESTATE
LICENSE OF RESPONDENT CASABLANCA GROUP, INC.

On September 17, 1998, an Accusation was filed in this matter against Respondent CASABLANCA GROUP, INC..

On April 27, 1999, Respondent petitioned the Commissioner to voluntarily surrender its corporate real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

1 IT IS HEREBY ORDERED that Respondent CASABLANCA GROUP,
2 INC.'s petition for voluntary surrender of its corporate real
3 estate broker license is accepted as of the effective date of this
4 Order as set forth below, based upon the understanding and
5 agreement expressed in Respondent's Declaration dated April 27,
6 1999 (attached as Exhibit "A" hereto).

7 This order shall become effective at 12 o'clock
8 noon on August 10, _____, 1999.

9 DATED: July 14, 1999

10 JOHN R. LIBERATOR,
11 Acting Real Estate Commissioner

12 John R. Liberator
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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	No. H- 27849	LA
CASABLANCA GROUP, INC., PRESIDENTE)		
MORTGAGE, INC., ALL CASA REALTY	)	<u>DECLARATION OF</u>	
GROUP, INC. and ERNESTO A.DIAZ (aka,	)	<u>ERNESTO A. DIAZ, ON</u>	
"Ernesto Alonso Diaz"), individually,	)	<u>BEHALF OF RESPONDENT</u>	
and as designated officer for	)	<u>CASABLANCA GROUP</u>	
CASABLANCA GROUP, INC., PRESIDENTE)		
MORTGAGE, INC., and ALL CASA REALTY)		
GROUP, INC,)		
Respondents.)		

DECLARATION

1. My name is ERNESTO A. DIAZ.
2. I am the licensed broker-officer of Respondent CASABLANCA GROUP, INC., (hereinafter, "CASABLANCA"), designated pursuant to California Business and Professions Code Section 10159.2 to be responsible for the supervision and control of activities conducted on behalf of the corporation.

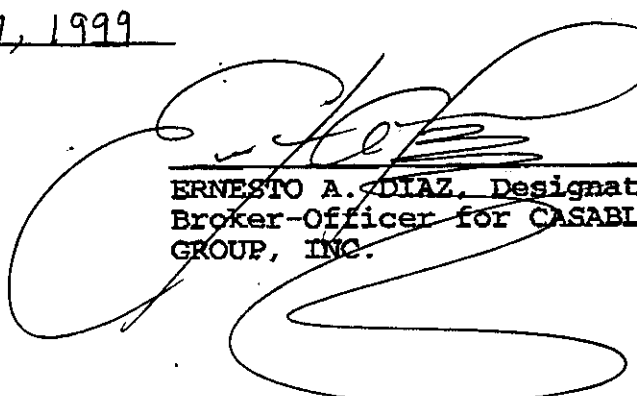
1 3. Pursuant to Business and Professions Code Section
2 10100.2, CASABLANCA seeks to voluntarily surrender its real
3 estate license issued by the Department, as well as all license
4 rights.

5 4. CASABLANCA understands that by so voluntarily
6 surrendering its license, it agrees to the following:

7 The filing of CASABLANCA's petition shall be deemed
8 to be an understanding and agreement that upon acceptance by the
9 Commissioner, as evidenced by an appropriate order, all affidavits
10 and all relevant evidence obtained in the investigation prior to
11 the acceptance and all allegations contained in the Accusation
12 filed in Department of Real Estate Case No. H-27849 LA may be
13 considered by the Department to be true and correct for the
14 purpose of deciding whether or not to grant reinstatement of
15 CASABLANCA's license.

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

18 DATED: April 27, 1999

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22 ERNESTO A. DIAZ, Designated
23 Broker-Officer for CASABLANCA
24 GROUP, INC.
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Index

FILED
JUL 20 1999
DEPARTMENT OF REAL ESTATE

By K. Hudecholo

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	No. H- 27849	LA
CASABLANCA GROUP, INC., PRESIDENTE	)	<u>ORDER ACCEPTING</u>	
MORTGAGE, INC., ALL CASA REALTY	)	<u>VOLUNTARY SURRENDER</u>	
GROUP, INC. and ERNESTO A.DIAZ (aka,	)	<u>OF RESPONDENT</u>	
"Ernesto Alonso Diaz"), individually,	)	<u>PRESIDENTE MORTGAGE,</u>	
and as designated officer for	)	<u>INC.</u>	
CASABLANCA GROUP, INC., PRESIDENTE)		
MORTGAGE, INC., and ALL CASA REALTY)		
GROUP, INC.,)		
Respondents.)		

ORDER ACCEPTING VOLUNTARY SURRENDER OF CORPORATE REAL ESTATE
LICENSE OF PRESIDENTE MORTGAGE, INC.

On September 17, 1998, an Accusation was filed in this matter against Respondent PRESIDENTE MORTGAGE, INC..

On April 27, 1999, Respondent petitioned the Commissioner to voluntarily surrender its corporate real estate broker license pursuant to Section 10100.2 of the Business and Professions Code.

1 IT IS HEREBY ORDERED that Respondent PRESIDENTE's
2 petition for voluntary surrender of its real estate broker license
3 is accepted as of the effective date of this Order as set forth
4 below, based upon the understanding and agreement expressed in
5 Respondent's Declaration dated April 27, 1999, (attached as
6 Exhibit "A" hereto).

7 This order shall become effective at 12 o'clock
8 noon on August 10, 1999.

9 DATED: July 14, 1999

10 JOHN R. LIBERATOR,
11 Acting Real Estate Commissioner

12 *John R. Liberator*
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
 CASABLANCA GROUP, INC., PRESIDENTE)
 MORTGAGE, INC., ALL CASA REALTY)
 GROUP, INC. and ERNESTO A. DIAZ (aka,)
 "Ernesto Alonso Diaz"), individually,)
 and as designated officer for)
 CASABLANCA GROUP, INC., PRESIDENTE)
 MORTGAGE, INC., and ALL CASA REALTY)
 GROUP, INC,)
 Respondents.)

No. H- 27849 LA

DECLARATION OF
ERNESTO A. DIAZ, ON
BEHALF OF RESPONDENT
PRESIDENTE MORTGAGE

DECLARATION

1. My name is ERNESTO A. DIAZ.

2. At all times relevant to the above-entitled case, I was the licensed broker-officer of Respondent PRESIDENTE MORTGAGE, INC., (hereinafter "PRESIDENTE") designated pursuant to California Business and Professions Code Section 10159.2 to be responsible for the supervision and control of activities conducted on behalf

1 of the corporation.

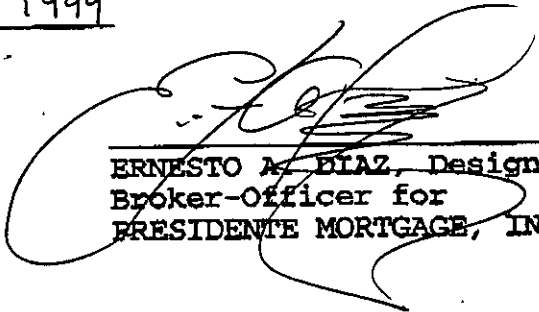
2 3. Pursuant to Business and Professions Code Section
3 10100.2, PRESIDENTE seeks to voluntarily surrender its real
4 estate license issued by the Department, along with all license
5 rights.

6 4. PRESIDENTE, by so voluntarily surrendering its license,
7 agrees to the following:

8 The filing of this petition shall be deemed to be an
9 understanding and agreement that upon acceptance by the
10 Commissioner, as evidenced by an appropriate order, all affidavits
11 and all relevant evidence obtained in the investigation prior to
12 the acceptance, and all allegations contained in the Accusation
13 filed in Department of Real Estate Case No. H-27849 LA, may be
14 considered by the Department to be true and correct for the
15 purpose of deciding whether or not to grant reinstatement of
16 PRESIDENTE's license.

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

19 DATED: April 27, 1999

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21 
22 ERNESTO A. DIAZ, Designated
23 Broker-Officer for
24 PRESIDENTE MORTGAGE, INC
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Farley

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
DEC 15 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CASABLANCA GROUP INC., et al.,

By *K. M. [Signature]*

Case No. H-27849 LA

OAH No. L-1998100354

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
Office of Administrative Hearings, 107 South Broadway, Second Floor, Los Angeles
CA 90012

on February 25, 1999, at the hour of 9:00 a.m.,
or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: December 15, 1998

By *Martha [Signature]* Counsel

cc: Casablanca Group Inc.
Presidente Mortgage Inc.
All Casa Realty Group Inc.
Ernesto A. Diaz

RE 501 (Rev. 8/97) Michael A. Lanphere, Esq.
kw Sacto OAH MB

4/11/98

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
NOV - 5 1998
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CASABLANCA GROUP, INC, et al.,

By K. Medsker
Case No. H-27849 LA

OAH No. L-19981000354

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at _____
Office of Administrative Hearings, 107 South Broadway, Second Floor
Los Angeles, CA 90012

on December 30, 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. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

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 and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: November 5, 1998

By Martha J. West

Counsel

cc: Casablanca Group Inc.
Presidente Mortgage Inc.
All Casa Realty Group Inc.
Ernesto A. Diaz

RE 501 (Rev. 8/97) Michael A. Lanphere, Esq.
kw Sacto OAH MB

1 MARTHA J. ROSETT, Counsel
2 State Bar # 142072
3 Department of Real Estate
4 107 South Broadway, Room 8107
5 Los Angeles, CA 90012

6 (213) 897-3937

FILED
SEP. 17 1998

DEPARTMENT OF REAL ESTATE

By K. W. K. K. K.

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

11 In the Matter of the Accusation of) No. H- 27849 LA
12 CASABLANCA GROUP, INC., PRESIDENTE)
13 MORTGAGE, INC., ALL CASA REALTY) ACCUSATION
14 GROUP, INC. and ERNESTO A. DIAZ (aka,)
15 "Ernesto Alonso Diaz"), individually,)
16 and as designated officer for)
17 CASABLANCA GROUP, INC., PRESIDENTE)
18 MORTGAGE, INC., and ALL CASA REALTY)
19 GROUP, INC.)
20 Respondents.)

21 The Complainant, Thomas McCrady, a Deputy Real Estate
22 Commissioner of the State of California, for cause of Accusation
23 against CASABLANCA GROUP, INC., PRESIDENTE MORTGAGE, INC., ALL
24 CASA REALTY GROUP, INC., and ERNESTO A. DIAZ (aka, "Ernesto Alonso
25 Diaz"), individually and as designated officer for each and all
26 corporate respondents, alleges as follows:

27 I

The Complainant, Thomas McCrady, a Deputy Real Estate
Commissioner of the State of California, makes this Accusation in
his official capacity.

1 II

2 Respondents CASABLANCA GROUP, INC., (hereinafter referred to
3 as "CASABLANCA"), PRESIDENTE MORTGAGE, INC., (hereinafter
4 "PRESIDENTE"), ALL CASA REALTY GROUP, INC., (hereinafter "ALL
5 CASA"), and ERNESTO A. DIAZ, (hereinafter "DIAZ"), are presently
6 licensed and/or have license rights under the Real Estate Law
7 (Part 1 of Division 4 of the California Business and Professions
8 Code, (hereinafter referred to as "the Code").

9 III

10 At all times herein mentioned, respondent DIAZ
11 was licensed as a real estate broker and as the broker-officer of
12 CASABLANCA, ALL CASA and PRESIDENTE.

13 IV

14 At all times herein mentioned, CASABLANCA, ALL CASA, and
15 PRESIDENTE were licensed as corporate real estate brokers acting
16 by and through respondent DIAZ as their designated broker-officer.

17 V

18 As the officer designated by CASABLANCA, ALL CASA, and
19 PRESIDENTE, pursuant to Section 10211 of the Code, respondent DIAZ
20 was, and still is, responsible for the supervision and control of
21 the activities conducted on behalf of CASABLANCA, ALL CASA and
22 PRESIDENTE, by their officers and employees as necessary to secure
23 full compliance with the Real Estate Law as set forth in Section
24 10159.2 of the Code.

25 VI

26 CASABLANCA is a California corporation in good standing.
27 At all times mentioned herein, CASABLANCA was, and still is,

1 licensed by the Department as a corporate real estate broker.
2 CASABLANCA also does business as, "Century 21 Casablanca Realty,"
3 and "Century 21 Casablanca Realty Escrow Division."

4 VII

5 PRESIDENTE is a California corporation in good standing.
6 PRESIDENTE's original corporate real estate broker license was
7 issued on January 27, 1994 and expired on January 26, 1998.
8 PRESIDENTE also did business as, "Casablanca Funding, Inc.,"
9 "Casablanca Funding, Inc. Escrow Division," and "Presidente
10 Mortgage, Inc. Escrow Division."

11 VIII

12 ALL CASA is a California corporation in good standing.
13 ALL CASA's original corporate real estate broker license was
14 issued January 27, 1998 and expires January 26, 2002. ALL CASA
15 also does business as, "Century 21-Casa Estates."
16

17 IX

18 All references made herein to an act or omission of one
19 or more Respondent shall also be deemed to refer to the officers,
20 directors, managers, employees, agents and real estate licensees
21 employed by or associated with said Respondent while acting within
22 the course and scope of its agency or employment.

23 X

24 At all times mentioned herein, for or in expectation of
25 compensation, CASABLANCA engaged in the business of, acted in the
26 capacity of, advertised or assumed to act as a real estate broker
27 in the State of California, within the meaning of Section 10131(a)
of the Code, which business included the purchase, sale or



1 exchange of real property on behalf of another or others, and the
2 performance of escrow services related to those resales.

3 XI

4 At all times mentioned herein, for or in expectation of
5 compensation, PRESIDENTE engaged in the business of, acted in the
6 capacity of, advertised or assumed to act as a real estate broker
7 in the State of California, within the meaning of Section 10131(d)
8 which business included operating and conducting a mortgage loan
9 brokerage business with the public, wherein lenders and borrowers
10 were solicited for loans secured directly or collaterally by liens
11 on real property.

12 XII

13 At all times mentioned herein, for or in expectation of
14 compensation, ALL CASA engaged in the business of, acted in the
15 capacity of, advertised or assumed to act as a real estate broker
16 in the State of California, within the meaning of Section 10131(a)
17 of the Code, which business included the purchase, sale or
18 exchange of real property on behalf of another or others, and the
19 performance of escrow services related to those resales.

20 XIII

21 At all times mentioned herein, for or in
22 expectation of compensation, Respondent DIAZ engaged in the
23 business of, acted in the capacity of, advertised or assumed to
24 act as a real estate broker in the State of California, within the
25 meaning of Sections 10131(a) and 10131(d) of the Code, which
26 business included the purchase, sale or exchange of real property
27 on behalf of another or others, and the performance of escrow



1 services related to those resales; and operating and conducting a
2 mortgage loan brokerage business with the public, wherein lenders
3 and borrowers were solicited for loans secured directly or
4 collaterally by liens on real property.

5 FIRST CAUSE OF ACCUSATION

6 (CASABLANCA GROUP INC. AUDIT)

7 XIV

8 Complainant hereby incorporates in this First, separate
9 and distinct cause of Accusation, all of the allegations contained
10 in Paragraphs One through Thirteen (I through XIII) of the
11 Accusation above.

12 XV

13 In acting as real estate brokers, Respondents CASABLANCA
14 and DIAZ accepted or received trust funds from or on behalf of
15 buyers, sellers, and others in connection with the purchase, sale
16 or exchange of real property, as alleged herein.

17 XVI

18 The aforesaid trust funds accepted or received by
19 Respondents were deposited or caused to be deposited by
20 Respondents into one or more bank accounts (hereinafter "trust
21 fund accounts") maintained by Respondents CASABLANCA and DIAZ for
22 the handling of trust funds.

23 XVII

24 Between March 13, 1998 and April 2, 1998, the Department
25 performed audits of the real estate activities of and CASABLANCA's
26 business records for the business period of January 1, 1997
27 through January 30, 1998. The audit revealed the following

1 violations:

- 2 1) The escrow trust account had a shortage of
3 \$30,041.24 as of January 30, 1998, in violation of Code
4 Section 10145 and Regulation 2832.1;
5 2) some of the buyers' checks received from the buyers
6 were not recorded in the record of trust funds received
7 and not placed into the broker's trust account, in
8 violation of Regulation 2831;
9 3) in some of the sales transactions, earnest money
10 deposits were not forwarded to escrow companies within
11 three days following the acceptance of the offer, and
12 the funds were so held without written authorization
13 from the principals, in violation of Code Section 10145
14 and Regulation 2832;
15 4) the broker failed to notify the Department of the
16 employment of salespersons in a timely fashion, in
17 violation of Code Section 10161.8 and Regulation 2752.

18 XVIII

19 The acts and omissions of Respondents CASABLANCA and
20 DIAZ as alleged in Paragraph XVII above, are in violation of Code
21 Sections 10145 and 10161.8 and Regulations 2832.1, 2831, 2832 and
22 2752, and constitute cause to suspend or revoke the licenses and
23 license rights of CASABLANCA and DIAZ pursuant to sections
24 10177(d) and 10177(g) of the Code.

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1 general bank account on January 10, 1997, thus
2 commingling trust funds with PRESIDENTE's funds, in
3 violation of sections 10145 and 10176(e) of the Code;
4 2) PRESIDENTE failed to maintain a monthly
5 reconciliation of the columnar record and the total
6 balance of separate records for the mortgage loan trust
7 account, in violation of Regulation 2831.2;
8 3) an unlicensed person, Carol Saucedo, was authorized
9 to sign trust account checks without fidelity bond
10 coverage, in violation of Regulation 2834;
11 4) PRESIDENTE failed to provide Department approved
12 Mortgage Loan Disclosure Statements to the borrowers in
13 the loan transactions, in violation of Section 10240 of
14 the Code and Regulation 2840.

15 XXIII

16 The acts and omissions of respondent PRESIDENTE, as
17 alleged in Paragraph XXII above, are in violation of Code Sections
18 10145 and 10240, and Regulations 2831.2, 2834 and 2840, and
19 constitute cause under Sections 10177(d) and 10176(e) of the Code
20 for suspension or revocation of all licenses and license rights of
21 Respondent PRESIDENTE under the Real Estate Law.

22 THIRD CAUSE OF ACCUSATION

23 (ALL CASA REALTY GROUP, INC. AUDIT)

24 XXIV

25 Complainant hereby incorporates in this Third, separate
26 and distinct cause of Accusation, all of the allegations contained
27 in Paragraphs One through Thirteen (I through XIII) of the



1 Accusation above.

2 XXV

3 In acting as a real estate broker, Respondent ALL CASA,
4 acting by and through broker DIAZ, accepted or received trust
5 funds from or on behalf of buyers, sellers, lessees and lessors
6 and others in connection with purchase, sale or exchange of real
7 property and the purchase, sale and exchange of leases on real
8 property by Respondents as alleged herein.

9 XXVI

10 The aforesaid trust funds accepted or received by
11 Respondents ALL CASA and DIAZ were deposited or caused to be
12 deposited by Respondents into one or more bank accounts
13 (hereinafter "trust fund accounts") maintained by for the handling
14 of trust funds.

15 XXVII

16 Between March 27, 1998 and April 2, 1998, the Department
17 performed audits of the real estate activities of ALL CASA's books
18 and records for the business period of January 27, 1998 through
19 March 26, 1998. The ALL CASA audit revealed the following
20 violations:

- 21 1) While ALL CASA did not maintain a bank trust
22 account, trust funds in the amount of \$920.51 from
23 PRESIDENTE MORTGAGE, INC. (which had not been in business
24 since 1996), were kept in ALL CASA's general bank
25 account, in violation of Section 10145 of the Code;
26 2) in some of the sales transactions, earnest money
27 deposits were not forwarded to escrow companies within

1 three days following the acceptance of an offer, and
2 said funds were held without written authorization from
3 the principals, in violation of Code Section 10145 and
4 Regulation 2832;

5 3) the broker failed to notify the Department of the
6 employment of salespersons in timely fashion, in
7 violation of Code Section 10161.8 and Regulation 2752;
8 and

9 4) the broker failed to maintain the Broker-Salesman
10 Relationship Agreement with some of the salespersons, in
11 violation of Regulation 2726.

12 XXVIII

13 The acts and omissions of ALL CASA, as alleged in paragraph
14 XXVII above, is cause to suspend or revoke ALL CASA's license and
15 license rights pursuant to sections 10177(d) and 10177(e) of the
16 Code.

17 FOURTH CAUSE OF ACCUSATION

18 (FAILURE TO SUPERVISE)

19 XXIX

20 Complainant hereby incorporates in this Fourth, separate
21 and distinct cause of Accusation, all of the allegations contained
22 in paragraphs One through Twenty-eight (I through XXVIII),
23 inclusive, above herein.

24 XXX

25 The conduct, acts and/or omissions of DIAZ in causing,
26 allowing or permitting CASABLANCA, ALL CASA and PRESIDENTE to
27 violate the Real Estate Law, as described herein above,



1 constitutes failure on the part of Respondent DIAZ, as the officer
2 designated by a corporate broker licensee, to exercise the
3 reasonable supervision and control over the licensed activities of
4 CASABLANCA, ALL CASA and PRESIDENTE, as required by Code Section
5 10159.2. Said conduct is cause to suspend, or revoke the real
6 estate licenses and license rights of DIAZ pursuant to the
7 provisions of Code Sections 10177(d) and 10177(h).

8
9 WHEREFORE, Complainant prays that a hearing be conducted on
10 the allegations of this Accusation and that upon proof thereof, a
11 decision be rendered imposing disciplinary action against all
12 licenses and/or license rights of Respondents CASABLANCA GROUP,
13 INC., PRESIDENTE MORTGAGE, INC., ALL CASA REALTY, and ERNESTO A.
14 DIAZ, under the Real Estate Law and for such other and further
15 relief as may be proper under applicable provisions of law.

16 Dated at Los Angeles, California
17 this 17th day of September , 1998.

18
19 THOMAS MC CRADY

20 Deputy Real Estate Commissioner

21
22
23
24 cc: ERNESTO A. DIAZ
25 CASABLANCA GROUP, INC.
26 ALL CASA REALTY GROUP, INC.
27 PRESIDENTE MORTGAGE, INC.
Sacto.
MB
Audits

