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File

FILED
FEB 20 2001
DEPARTMENT OF REAL ESTATE

By Laura B. Cron

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	
CLAUDIO ANDRES ROJAS and)	NO. H- 28174 LA
JORGE AUGUSTO VILLARINO dba,)	
"Main Street Properties,")	
Respondents.)	

AMENDED ORDER SUSPENDING RESTRICTED REAL ESTATE LICENSE

TO: CLAUDIO ANDRES ROJAS

On or about November 23, 1999, a restricted real estate salesperson license was issued by the Department of Real Estate to Respondent ROJAS on the terms, conditions and restrictions set forth in the Acting Real Estate Commissioner's Order of October 26, 1999, in case No. H- 28174 LA. This Order, which was effective November 23, 1999, granted Respondent the right to the issuance of a restricted real estate salesperson license subject to the provisions of Section 10156.7 of the Business and Professions Code and to enumerated additional terms, conditions and restrictions imposed under authority of Section 10156.6 of said Code.

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Among said terms, conditions and restrictions, Respondent was required to take and pass the Professional Responsibility Course Examination within six months of the effective date of the Decision. The Commissioner has determined that, as of July 31, 2000, Respondent failed to satisfy that condition, and as such, is in violation of Section 10177(k) of the Business and Professions Code. Respondent has no right to renew the restricted license if this condition isn't satisfied by the date of its expiration, pursuant to Section 10156.7 of the Business and Professions Code.

Also among the terms, conditions, and restrictions of Respondent's restricted real estate license was a requirement that Respondent submit evidence of completion of 45 hours of approved continuing education offerings as set forth in Section 10170, et seq., within nine months of the effective date of the Decision. The Commissioner has determined that as of August 23, 2000, Respondent has failed to satisfy this condition, and as such, is in violation of Section 10177(k) of the Business and Professions Code. Respondent has no right to renew the restricted license if this condition isn't satisfied by the date of its expiration, pursuant to Code Section 10156.7.

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1 NOW, THEREFORE, IT IS ORDERED under authority of
2 Section 10156.7 of the Business and Professions Code of the
3 State of California that the restricted real estate salesperson
4 license heretofore issued to respondent and the exercise of any
5 privileges thereunder is hereby suspended until such time as
6 you provide proof satisfactory to the Department of compliance
7 with the conditions referred to above, or pending final
8 determination made after hearing (see "Hearing Rights" set
9 forth below).

10 IT IS FURTHER ORDERED that all license certificates
11 and identification cards issued by Department which are in the
12 possession of respondent be immediately surrendered by personal
13 delivery or by mailing in the enclosed, self-addressed envelope
14 to:

15 Department of Real Estate
16 Attn: Flag Section
17 P. O. Box 187000
Sacramento, CA 95818-7000

18 HEARING RIGHTS: Pursuant to the provisions of
19 Section 10156.7 of the Business and Professions Code, you have
20 the right to a hearing to contest the Commissioner's
21 determination that you are in violation of Section 10177(k).
22 If you desire a hearing, you must submit a written request.
23 The request may be in any form, as long as it is in writing and
24 indicates that you want a hearing. Unless a written request
25 for a hearing, signed by or on behalf of you, is delivered or
26 mailed to the Department at Los Angeles, California within 20
27 days after the date that this Order was mailed to or served on

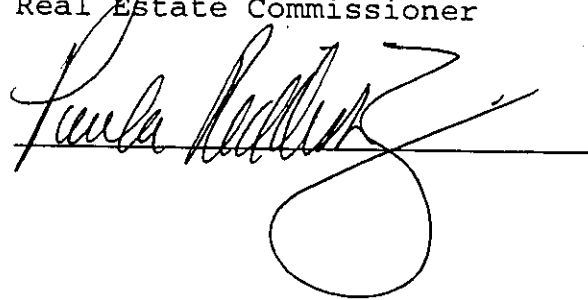
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you, the Department will not be obligated or required to provide you with a hearing.

This Order shall be effective immediately.

DATED: February 1, 2001

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



1 conditions and restrictions, Respondent was required to take
2 and pass the Professional Responsibility Course Examination
3 within six months of the effective date of the Decision. The
4 Commissioner has determined that as of July 31, 2000,
5 Respondent has failed to satisfy this condition, and as such,
6 is in violation of Section 10177(k) of the Business and
7 Professions Code. Respondent has no right to renew the
8 restricted license if this condition isn't satisfied by the
9 date of its expiration. (Section 10156.7 of the Business and
10 Professions Code.

11 NOW, THEREFORE, IT IS ORDERED under authority of
12 Section 10156.7 of the Business and Professions Code of the
13 State of California that the restricted real estate salesperson
14 license heretofore issued to respondent and the exercise of any
15 privileges thereunder is hereby suspended until such time as
16 you provide proof satisfactory to the Department of compliance
17 with the "condition(s)" referred to above, or pending final
18 determination made after hearing (see "Hearing Rights" set
19 forth below)."

20 IT IS FURTHER ORDERED that all license certificates
21 and identification cards issued by Department which are in the
22 possession of respondent be immediately surrendered by personal
23 delivery or by mailing in the enclosed, self-addressed envelope
24 to:

25 Department of Real Estate
26 Attn: Flag Section
27 P. O. Box 187000
Sacramento, CA 95818-7000



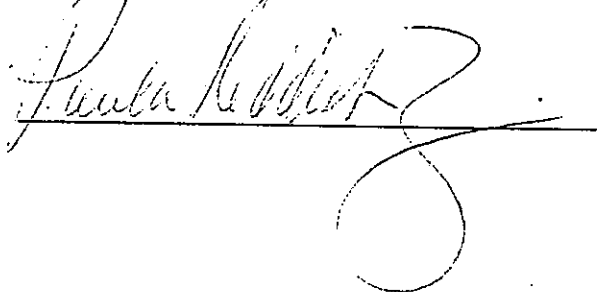
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HEARING RIGHTS: Pursuant to the provisions of Section 10156.7 of the Business and Professions Code, you have the right to a hearing to contest the Commissioner's determination that you are in violation of Section 10177(k). If you desire a hearing, you must submit a written request. The request may be in any form, as long as it is in writing and indicates that you want a hearing. Unless a written request for a hearing, signed by or on behalf of you, is delivered or mailed to the Department at Los Angeles, California within 20 days after the date that this Order was mailed to or served on you, the Department will not be obligated or required to provide you with a hearing.

This Order shall be effective immediately.

DATED: August 18, 2000

PAULA REDDISH ZINNEMANN
Real Estate Commissioner



1 Department of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013

4 Telephone (213) 576-6982
5 (213) 576-6914

FILED
NOV - 3 1999
DEPARTMENT OF REAL ESTATE

By K. Wiederholt

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11	In the Matter of the Accusation of)	No. H- 28174 LA
12	CLAUDIO ANDRES ROJAS and JORGE AUGUSTO)	STIPULATION AND
13	VILLARINO dba, "Main Street Properties,)	AGREEMENT IN
14	Respondents.)	SETTLEMENT

15 It is hereby stipulated by and between CLAUDIO ANDRES
16 ROJAS (hereinafter, "Respondent ROJAS,"), and JORGE AUGUSTO
17 VILLARINO, (hereinafter, "Respondent VILLARINO), acting by and
18 through Alexis Galindo, Esq., Curd, Galindo and Smith, Counsel for
19 all Respondents, and the Complainant, acting by and through Martha
20 J. Rosett, Counsel for the Department of Real Estate, as follows
21 for the purpose of settling and disposing of the Accusation filed
22 on June 24, 1999 in this matter: .

23 1. All issues contested and all evidence to be
24 presented by Complainant and Respondents at a formal hearing on
25 the Accusation, which hearing was to be held in accordance with
26 the provisions of the Administrative Procedure Act (APA), shall

1 instead and in place thereof be submitted solely on the basis of
2 the provisions of this Stipulation and Agreement.

3 2. Respondents have received, read and understand 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. This Stipulation and Agreement is based on the
8 factual allegations contained in the Accusation filed in this
9 proceeding. In the interest of expedience and economy,
10 Respondents choose not to litigate these allegations at a formal
11 administrative hearing, but to remain silent and understand that,
12 as a result thereof, these factual allegations, without being
13 admitted or denied, will serve as a prima facie basis for the
14 disciplinary action stipulated to herein. This Stipulation and
15 Agreement and Respondents' decision not to contest the Accusation
16 are hereby expressly limited to this proceeding and made for the
17 sole purpose of reaching an agreed disposition of this proceeding.
18 Respondents' decision not to contest the factual allegations at a
19 formal administrative hearing is made solely for the purpose of
20 effectuating this Stipulation and Agreement and Respondents'
21 agreement to settle this matter is intended to be non-binding upon
22 them in any actions against Respondents by third parties and/or in
23 any future proceedings by the Real Estate Commissioner. The Real
24 Estate Commissioner shall not be required to provide further
25 evidence to prove said factual allegations.

26 4. It is understood by the parties that the Real Estate
27 Commissioner may adopt the Stipulation and Agreement as his



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

9 5. The Order or any subsequent Order of the Real Estate
10 Commissioner made pursuant to this Stipulation and Agreement shall
11 not constitute an estoppel, merger or bar to any further
12 administrative proceedings by the Department of Real Estate with
13 respect to any matters which were not specifically alleged to be
14 causes for accusation in this proceeding. Provided, however, that
15 the Department of Real Estate cannot bring any further action or
16 proceeding against Respondents, with respect to the issues raised
17 in the Accusation.

18 DETERMINATION OF ISSUES

19 By reason of the foregoing stipulations and waivers and
20 solely for the purpose of settlement of the pending Accusation, it
21 is stipulated and agreed that the following Determination of
22 Issues shall be made:

23 I

24 The conduct, acts and/or omissions of Respondent CLAUDIO
25 ANDRES ROJAS, as alleged in the Accusation, are in violation of
26 California Business and Professions Code (hereinafter, "Code"),
27 Section 10145 (c), and is grounds for the suspension or revocation



1 of the real estate license and license rights of Respondent ROJAS,
2 under the provisions of Code Sections 10177(d) and 10177(g).

3 II

4 The conduct, acts and/or omissions of Respondent JORGE
5 VILLARINO, as alleged in the Second Cause of Accusation, are in
6 violation of Code Sections 10145 and 10163 and Regulations 2831,
7 2832, and 2731, and constitute cause for the suspension or
8 revocation of the real estate license and license rights of
9 Respondent VILLARINO, pursuant to Section 10177(d) of the Code.

10 III

11 The conduct, acts and/or omissions of Respondent JORGE
12 VILLARINO, as alleged in the Third Cause of Accusation constitute
13 cause for the suspension or revocation of Respondent VILLARINO's
14 license and license rights pursuant to Code Section 10177(h).

15 ORDER

16 WHEREFORE, THE FOLLOWING ORDERS are hereby made:

17 I. AS TO RESPONDENT CLAUDIO ROJAS:

18 All licenses and licensing rights of Respondent CLAUDIO
19 ROJAS under the Real Estate Law are revoked; provided, however, a
20 restricted real estate salesperson license shall be issued to
21 Respondent pursuant to Section 10156.5 of the Business and
22 Professions Code if Respondent makes application therefor and pays
23 to the Department of Real Estate the appropriate fee for the
24 restricted license within 90 days from the effective date of this
25 Decision. In addition, any such restricted license shall only be
26 issued upon proof that Respondent ROJAS has made restitution in

27



1 the amount of \$1,000 to John J. Tobin. The restricted license
2 issued to Respondent shall be subject to all of the provisions of
3 Section 10156.7 of the Business and Professions Code and to the
4 following limitations, conditions and restrictions imposed under
5 authority of Section 10156.6 of that Code:

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

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

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

24 d. Respondent shall submit with any application for
25 license under an employing broker, or any application
26 for transfer to a new employing broker, a statement
27 signed by the prospective employing real estate broker



1 on a form approved by the Department of Real Estate
2 which shall certify:

3 1. That the employing broker has read the
4 Decision of the Commissioner which granted the right to
5 a restricted license; and

6 2. That the employing broker will exercise close
7 supervision over the performance by the restricted
8 licensee relating to activities for which a real estate
9 license is required.

10 e. Respondent shall, within nine months from the
11 effective date of this Decision, present evidence
12 satisfactory to the Real Estate Commissioner that
13 Respondent has, since the most recent issuance of an
14 original or renewal real estate license, taken and
15 successfully completed the continuing education
16 requirements of Article 2.5 of Chapter 3 of the Real
17 Estate Law for renewal of a real estate license. If
18 Respondent fails to satisfy this condition, the
19 Commissioner may order the suspension of the restricted
20 license until Respondent presents such evidence. The
21 Commissioner shall afford Respondent the opportunity for
22 a hearing pursuant to the Administrative Procedure Act
23 to present such evidence, in addition to evidence as to
24 why his license should not be revoked.

25 f. Respondent shall, within six months from the
26 effective date of this Decision, take and pass the
27 Professional Responsibility Examination administered by



1 the Department including the payment of the appropriate
2 examination fee. If Respondent fails to satisfy this
3 condition, the Commissioner may order suspension of
4 Respondent's license until Respondent passes the
5 examination. In the event that the examination is not
6 passed within a reasonable period of time, the
7 Commissioner shall afford Respondent the opportunity for
8 a hearing pursuant to the Administrative Procedure Act
9 to present evidence as to why his license should not be
10 revoked.

11 II. AS TO RESPONDENT JORGE VILLARINO:

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

19 1. Respondent VILLARINO pay a monetary penalty
20 pursuant to Section 10175.2 of the California
21 Business and Professions Code, in the amount of \$50
22 per day, for a total of One-Thousand Five Hundred
23 Dollars (\$1,500).

24 2. Said payment shall be in the form of a
25 cashier's check or certified check made payable to
26 the Recovery Account of the Real Estate Fund. Said
27



1 check must be delivered to the Department prior to
2 the effective date of the Decision in this matter.

3 3. If Respondent fails to pay the monetary
4 penalty in accordance with the terms and conditions
5 of the Decision, the Commissioner may, without a
6 hearing, order the immediate execution of all or any
7 part of the stayed suspension in which event the
8 Respondent shall not be entitled to any repayment
9 nor credit, prorated or otherwise, for money paid to
10 the Department under the terms of this Decision.

11 B. The remaining sixty (60) days of the suspension
12 imposed upon Respondent VILLARINO shall be stayed for a period of
13 two years, subject to the following terms and conditions:

- 14 1. Respondent shall obey all laws, rules and
15 regulations governing the rights, duties and
16 responsibilities of a real estate licensee in the State
17 of California; and
- 18 2. That no final subsequent determination be made,
19 after hearing or upon stipulation, that cause for
20 disciplinary action occurred within two (2) years of the
21 effective date of this Decision. Should such a
22 determination be made, the Commissioner may, in his
23 discretion, vacate and set aside the stay order and
24 reimpose all or a portion of the stayed suspension.
25 Should no such determination be made, the stay imposed
26 herein shall become permanent.



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3. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's reasonable cost for an audit to determine if Respondent has corrected the trust fund violation(s) found in Paragraphs II and III of the Determination of Issues. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel costs, including mileage, time to and from the auditor's place of work and per diem.

Respondent shall pay such cost within 45 days of receiving an invoice from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. The Commissioner may, in his discretion, vacate and set aside the stay order, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The vacation and the set aside of the stay shall remain in effect until payment is made in full, or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment. Should no order vacating the stay be issued, either in accordance with this condition or the conditions set forth above, the stay imposed herein shall become permanent.



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4. Respondent VILLARINO shall provide the Department
with proof that he has made restitution in the amount of
\$1,000 to John J. Tobin.

DATED: 10/5/99


MARTHA J. ROSETT

Counsel for Complainant

* * *

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: _____

JORGE VILLARINO, Respondent

DATED: _____

CLAUDIO ROJAS, Respondent

DATED: 10/5/99



ALEXIS GALINDO, Counsel for both
Respondents

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4. Respondent VILLARINO shall provide the Department with proof that he has made restitution in the amount of \$1,000 to John J. Tobin.

DATED: 10/5/99

Martha J. Rosett
MARTHA J. ROSETT

Counsel for Complainant

* * *

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: 8-31-99

Jorge Villarino
JORGE VILLARINO, Respondent

DATED: _____

CLAUDIO ROJAS, Respondent

DATED: _____

ALEXIS GALINDO, Counsel for both Respondents

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4. Respondent VILLARINO shall provide the Department with proof that he has made restitution in the amount of \$1,000 to John J. Tobin.

DATED: 10/5/99

Martha J. Rosett
MARTHA J. ROSETT

Counsel for Complainant

* * *

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: _____

JORGE VILLARINO, Respondent

DATED: _____

~~_____
CLAUDIO ROJAS, Respondent~~

DATED: _____

ALEXIS GALINDO, Counsel for both Respondents

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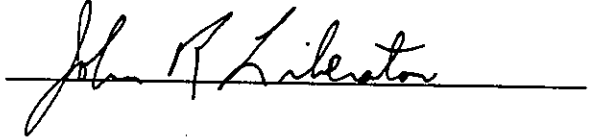
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* * *

1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision in this matter and shall become effective
3 at 12 o'clock noon on November 23, 1999.
4

5 IT IS SO ORDERED Oct. 26, 1999.

6 JOHN R. LIBERATOR,
7 Acting Real Estate Commissioner

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Sacto July

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL 23 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

CLAUDIO ANDRES ROJAS and
JORGE AUGUSTO VILLARINO,

}
}

Case No. H-28174-1A

OAH No. L-1999070311

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, 320 W. Fourth St., Ste. 630, Los Angeles, CA on August 31, 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: July 23, 1999

By Martha Holt Counsel

cc: Claudio A. Rojas
Jorge A. Villarino
RE 501 (Rev. 8/97) Alexis Galindo, Esq.
Sacto OAH PM

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Arce J...

MARTHA J. ROSETT, Counsel (SBN 142072)
Department of Real Estate
320 West Fourth Street, #350
Los Angeles, California 90013

FILED
JUN 24 1999
DEPARTMENT OF REAL ESTATE

By *K. Hueland*

(213) 576-6982
(213) 576-6914

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of)	No. H- 28174 LA
)	
CLAUDIO ANDRES ROJAS and)	<u>A C C U S A T I O N</u>
JORGE AUGUSTO VILLARINO, dba,)	
"Main Street Properties,")	
)	
Respondents.)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against CLAUDIO ANDRES ROJAS, (hereinafter "Respondent ROJAS") and JORGE AUGUSTO VILLARINO, dba "Main Street Properties," (hereinafter "Respondent VILLARINO,") is informed and alleges as follows:

I

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

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II

1
2 At all times relevant herein, Respondent CLAUDIO ANDRES
3 ROJAS was and is presently licensed and/or has license rights
4 under the Real Estate Law, Part 1 of Division 4 of the California
5 Business and Professions Code (hereinafter "Code"), as a real
6 estate salesperson. At all times relevant herein, Respondent
7 ROJAS was employed by broker Respondent VILLARINO.

III

8
9 At all times material herein, Respondent JORGE AUGUSTO
10 VILLARINO was and is presently licensed and/or has license rights
11 under the Real Estate Law, Part 1 of Division 4 of the California
12 Business and Professions Code (hereinafter "Code"), as a real
13 estate broker licensed to do business as, "Main Street
14 Properties."

IV

15
16 At all times material herein, Respondents engaged in the
17 business of, acted in the capacity of, advertised or assumed to
18 act as a real estate broker in the State of California, within the
19 meaning of Code Sections 10131(a), for another or others, for or
20 in expectation of compensation. Said activity included the
21 operation and conduct of a real estate sale business with the
22 public, wherein they sold or offered to sell, bought or offered to
23 buy, solicited prospective sellers or purchasers of, solicited or
24 obtained listings of, or negotiated the purchase, sale or exchange
25 of real property or a business opportunity.

V

26
27 On or about October 18, 1997, Respondent ROJAS

1 negotiated the purchase of real property known as 5528 Cannister
2 Avenue in Rancho Cucamonga, California, on behalf of the buyer,
3 Adrianna Trujillo. The Real Estate Purchase Contract and Receipt
4 for Deposit stated that Respondent had received \$2,000 from the
5 buyer and had placed it into a broker's trust account. Respondent
6 ROJAS, doing business as "CR Homes," signed this contract
7 acknowledging receipt of \$2,000 from the buyer. In fact,
8 Respondent ROJAS never received \$2,000 from the buyer. Instead,
9 Respondent ROJAS received a check for \$500, which check was never
10 forwarded to his broker, never forwarded to escrow nor to the
11 seller, but rather was returned to the buyer.

12 VI

13 Respondent ROJAS never notified the seller of the return
14 of the deposit to the buyer, nor did he receive written
15 authorization from them to have done so. The buyers cancelled the
16 transaction and kept the check., never placing it into escrow.

17 VII

18 The conduct, acts or omissions of Respondent as alleged
19 above, in delivering the buyer's funds back to the buyers rather
20 than to the seller, his broker or to escrow is in violation of
21 Section 10145(c) of the Business and Professions Code and is
22 grounds to discipline the license and licensing rights of
23 Respondent under the provisions of Section 10177(d) of the Code.

24 VIII

25 Further, the acts or omissions of Respondent constitute
26 negligence or incompetence and are grounds for the revocation or
27 suspension of Respondent's license and license rights pursuant to

1 Section 10177(g) of the Code.

2 SECOND CAUSE OF ACCUSATION

3 (AUDIT)

4 IX

5 There is hereby incorporated in this second, separate
6 and distinct cause of Accusation, all of the allegations contained
7 in Paragraphs I through VIII with the same force and effect as if
8 herein set forth.

9 X

10 On or about May 12, 1999, the Department completed an
11 audit of Respondent JORGE AUGUSTO VILLARINO's books and records,
12 pertaining to the real estate activities described in Paragraph IV
13 above, covering a period from approximately April 1, 1997 through
14 April 30, 1998, which examination revealed violations of the Code
15 and of Title 10, Chapter 6, California Code of Regulations
16 ("Regulations"), as set forth below.

17 XI

18 In the course of activities described in Paragraphs
19 and IV and V above, and during the examination period described in
20 Paragraph X, Respondent acted in violation of the Code and the
21 Regulations in that:

- 22 a) Respondent VILLARINO failed to maintain a complete
23 columnar record of trust funds received and not placed
24 into a trust account, in violation of Regulation 2831;
25 b) Trust funds were held beyond three business days
26 from acceptance in violation of Regulation 2832;
27 c) Respondent failed to obtain licenses for two San



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Bernardino branch offices, in violation of Section 10163 of the Code;

d) In violation of Regulation 2731, licensed employees of Respondent VILLARINO, Respondent CLAUDIO ANDRES ROJAS and Johnny Rojas, negotiated real estate sales transactions under the unauthorized dba's of "CR Homes" and "Pacific Investment."

Each of the foregoing violations is grounds for the revocation or suspension of Respondent's real estate license pursuant to Code Section 10177(d).

THIRD CAUSE OF ACCUSATION
(Failure to Supervise)

XII

There is hereby incorporated in this second, separate and distinct cause of Accusation, all of the allegations contained in Paragraphs I through VIII with the same force and effect as if herein set forth.

XIII

During the period from April 1, 1997 through April 30, 1998, Respondent VILLARINO failed to exercise reasonable supervision over the activities of salespersons in his employ in that Respondent failed to properly oversee the activities of Respondent CLAUDIO ANDRES ROJAS and Johnny Rojas, two salespersons in his employ who were engaged in real estate sales transactions carried out at branch offices which were not licensed to the Department. Respondent VILLARINO failed to maintain regular and

1 consistent reports of the licensed activities of these
2 salespersons.
3 During the period described, Respondent VILLARINO failed to
4 establish policies, rules, procedures and systems to review,
5 oversee, inspect and manage those items set forth in Section 2725
6 (a through g) of Title 10, Chapter 6, California Code of
7 Regulations, and to establish a system for monitoring compliance
8 with such policies, rules, procedures and systems.

9 XIV

10 The facts alleged above are grounds for the suspension or
11 revocation of Respondent VILLARINO's license under Section
12 10177(h) of the Code.

13 WHEREFORE, Complainant prays that a hearing be conducted
14 on the allegations of this Accusation and that upon proof thereof,
15 a decision be rendered imposing disciplinary action against all
16 licenses and license rights of CLAUDIO ANDRES ROJAS and JORGE
17 AUGUSTO VILLARINO under the Real Estate Law, and for such other
18 and further relief as may be proper under other applicable
19 provisions of law.

20 Dated at Los Angeles, California
21 this 24th day of June, 1999.

22 THOMAS MC CRADY
23 Deputy Real Estate Commissioner

24
25 cc: CLAUDIO ANDRES ROJAS
26 JORGE AUGUSTO VILLARINO
27 Sacto.
Audits
PM