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FILED

MAR 8 1 2010

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of
XIOMARA MENENDEZ-OLIVA,
Respondent.

No. H-30596 LA

ORDER DENYING REINSTATEMENT OF LICENSE AND
GRANTING RIGHT TO A RESTRICTED LICENSE

On July 2, 2004, a Decision was rendered revoking the real estate salesperson license of Respondent, but granting a restricted license. Respondent did not apply for a restricted license

On or about September 5, 2008, Respondent petitioned for reinstatement of Respondent's real estate salesperson license. The Attorney General of the State of California has been given notice of the filing of said petition.

I have considered Respondent's petition and the evidence and arguments in support thereof. Respondent has failed to demonstrate to my satisfaction that Respondent has undergone sufficient rehabilitation to warrant the reinstatement of Respondent's real estate salesperson license, in that:

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I

In the Decision which revoked Respondent's real estate license there were Determination of Issues made that there was cause to revoke Respondent's real estate license pursuant to Business and Professions Code ("Code") Sections 10130 and 10177(d), for unlicensed activity.

II

The burden of proving rehabilitation rests with the petitioner (*Feinstein v. State Bar* (1952) 39 Cal. 2d 541). A petitioner is required to show greater proof of honesty and integrity than an applicant for first time licensure. The proof must be sufficient to overcome the prior adverse judgment on the applicant's character (*Tardiff v. State Bar* (1980) 27 Cal. 3d 395).

III

The Department has developed criteria in Section 2911 of Title 10, California Code of Regulations (Regulations) to assist in evaluating the rehabilitation of an applicant for reinstatement of a license. Among the criteria relevant in this proceeding are:

Regulation 2911(k) – Correction of business practices resulting in injury to others or with the potential to cause such injury. Respondent has been out of the business for over five (5) years.

Given the violations found and the fact that Respondent has not established that Respondent has complied with Regulation 2911(k), I am not satisfied that Respondent is sufficiently rehabilitated to receive a real estate salesperson license.

NOW, THEREFORE, IT IS ORDERED that Respondent's petition for reinstatement of Respondent's real estate salesperson license is denied.

I am satisfied, however, that it will not be against the public interest to issue a restricted real estate salesperson license to Respondent.

A restricted real estate salesperson license shall be issued to Respondent pursuant to Code Section 10156.5 if Respondent within twelve (12) months from the date hereof providing Respondent:

1 (a) qualifies for, takes and passes the written examination required to obtain a real
2 estate salesperson license;

3 (b) makes application and pays the appropriate fee for said license;

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

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

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

15 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
16 real estate license nor for the removal of any of the conditions, limitations or restrictions of a
17 restricted license until two (2) years have elapsed from the effective date of this Decision.

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

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

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

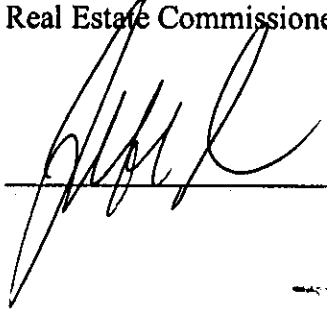
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This Order shall become effective at 12 o'clock noon on APR 12 2010

IT IS SO ORDERED 3/4/20

JEFF DAVI
Real Estate Commissioner



A handwritten signature in black ink, appearing to read 'Jeff Davi', is written over a horizontal line. The signature is stylized and cursive.

58070

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982

FILED
JUL 08 2004
DEPARTMENT OF REAL ESTATE

By [Signature]

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-30596 LA
)	L-2004020578
<u>MIGUEL MENDEZ</u> , individually and)	
doing business as UPTOWN FUNDING)	<u>STIPULATION AND AGREEMENT</u>
and XIOMARA MENENDEZ OLIVA,)	
)	
Respondent.)	
)	

It is hereby stipulated by and between Respondent MIGUEL MENDEZ, (sometimes referred to herein as ("Respondent")), and his attorney of record, Carl M. Bergkvist, Esq. and the Complainant, acting by and through Darlene Averetta, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on December 24, 2003, in this matter.

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

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

12 3. On January 12, 2004, Respondent filed a Notice of
13 Defense Pursuant to Section 11506 of the Government Code for
14 the purpose of requesting a hearing on the allegations in the
15 Accusation. Respondent hereby freely and voluntarily withdraws
16 said Notice of Defense. Respondent acknowledges that Respondent
17 understands that by withdrawing said Notice of Defense,
18 Respondent will thereby waive his right to require the
19 Commissioner to prove the allegations in the Accusation at a
20 contested hearing held in accordance with the provisions of the
21 APA and that Respondent will waive other rights afforded to him
22 in connection with the hearing, such as the right to present
23 evidence in defense of the allegations in the Accusation and the
24 right to cross-examine witnesses.
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1 4. This Stipulation is based on the factual
2 allegations contained in the Accusation filed in this
3 proceeding. In the interest of expedience and economy,
4 Respondent chooses not to contest these factual allegations but
5 to remain silent and understand that, as a result thereof, these
6 factual statement, will serve as a prima facie basis for the
7 disciplinary action stipulated to herein. The Real Estate
8 Commissioner shall not be required to provide further evidence
9 to prove such allegations.

10 5. This Stipulation and Respondent's decision not to
11 contest the Accusation are made for the purpose of reaching an
12 agreed disposition of this proceeding and are expressly limited
13 to this proceeding and any other proceeding or case in which the
14 Department, the state or federal government, or an agency of
15 this state, another state or the federal government is involved.

16 6. It is understood by the parties that the Real
17 Estate Commissioner may adopt the Stipulation as his decision
18 in this matter thereby imposing the penalty and sanctions on
19 Respondent's real estate license and license rights as set forth
20 in the below "Order". In the event that the Commissioner in his
21 discretion does not adopt the Stipulation, the Stipulation shall
22 be void and of no effect, and Respondent shall retain the right
23 to a hearing on the Accusation under all the provisions of the
24 APA and shall not be bound by any stipulation or waiver made
25 herein.
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1 1. Respondent shall obey all laws, rules and
2 regulations governing the rights, duties and responsibilities
3 of a real estate licensee in the State of California.

4 2. That no final subsequent determination be made,
5 after hearing or upon stipulation, that cause for disciplinary
6 action occurred within one (1) year of the effective date of
7 this Decision. Should such determination be made, the
8 Commissioner may, in his discretion, vacate and set aside the
9 stay order and reimpose all or a portion of the stayed
10 suspension. Should no such determination be made, the stay
11 imposed herein shall become permanent.

12 3. The initial sixty (60) day portion of said ninety
13 (90) day suspension shall commence on the effective date of this
14 Decision; provided, however, that if Respondent petitions, said
15 suspension shall be stayed upon condition that:

16 (a) Respondent pays a monetary penalty pursuant to
17 Section 10175.2 of the Business and Professions Code at the rate
18 of \$75.00 a day of the suspension for a total monetary penalty
19 of \$4,500.

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

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1 (c) No further cause for disciplinary action against
2 the real estate license of Respondent occurs within
3 one (1) year from the effective date of the Decision in this
4 matter.

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

12 (e) If Respondent pays the monetary penalty and if no
13 further cause for disciplinary action against the real estate
14 license of Respondent occurs within one (1) year from the
15 effective date of the Decision, the stay hereby granted shall
16 become permanent.

17
18 DATED: June 22, 2004


DARLENE AVERETTA, Counsel for
the Department of Real Estate

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* * *

1 I have read the Stipulation and Agreement and have
2 discussed it with my counsel. Its terms are understood by me
3 and are agreeable and acceptable to me. I understand that I
4 am waiving rights given to me by the California Administrative
5 Procedure Act (including but not limited to Sections 11506,
6 11508, 11509 and 11513 of the Government Code), and I willingly,
7 intelligently and voluntarily waive those rights, including the
8 right of requiring the Commissioner to prove the allegations in
9 the Accusation at a hearing at which I would have the right to
10 cross-examine witnesses against me and to present evidence in
11 defense and mitigation of the charges.
12

13 Respondent can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of its signature page, as actually signed by Respondent,
16 to the Department at the following telephone/fax number: (213)
17 576-6917. Respondent agrees, acknowledges and understands that
18 by electronically sending to the Department a fax copy of his or
19 her actual signature as it appears on the Stipulation and
20 Agreement, that receipt of the faxed copy by the Department
21 shall be as binding on Respondent as if the Department had
22 received the original signed Stipulation and Agreement.
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DATED: 6-18-04



MIGUEL MENDEZ, Respondent

DATED: 6-18-04


CARL M. BERGQVIST, ESQ., Attorney
for Respondent, Approved as to
Form and Content

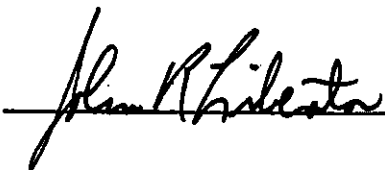
* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent MIGUEL MENDEZ
and shall become effective at 12 o'clock noon on
July 28, 2004.

IT IS SO ORDERED

July 2, 2004

JOHN R. LIBERATOR
Acting Real Estate Commissioner



50270
MAN

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6982

FILED
JUL 08 2004

DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)	NO. H-30596 LA
)	L-2004020578
MIGUEL MENDEZ, individually and)	
doing business as UPTOWN FUNDING)	<u>STIPULATION AND AGREEMENT</u>
and <u>XIOMARA MENENDEZ OLIVA,</u>)	
)	
Respondent.)	

It is hereby stipulated by and between Respondent XIOMARA MENENDEZ OLIVA, (sometimes referred to herein as ("Respondent")), and the Complainant, acting by and through Darlene Averetta, Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on December 24, 2003, in this matter.

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

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement ("Stipulation").

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

7 3. On February 4, 2004, Respondent filed a Notice of
8 Defense Pursuant to Section 11506 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that Respondent
12 understands that by withdrawing said Notice of Defense,
13 Respondent will thereby waive his right to require the
14 Commissioner to prove the allegations in the Accusation at a
15 contested hearing held in accordance with the provisions of the
16 APA and that Respondent will waive other rights afforded to him
17 in connection with the hearing, such as the right to present
18 evidence in defense of the allegations in the Accusation and the
19 right to cross-examine witnesses.
20

21 4. This Stipulation is based on the factual
22 allegations contained in the Accusation filed in this
23 proceeding. In the interest of expedience and economy,
24 Respondent chooses not to contest these factual allegations but
25 to remain silent and understand that, as a result thereof, these
26 factual statement, will serve as a prima facie basis for the
27 disciplinary action stipulated to herein. The Real Estate

1 Commissioner shall not be required to provide further evidence
2 to prove such allegations.

3 5. This Stipulation and Respondent's decision not to
4 contest the Accusation are made for the purpose of reaching an
5 agreed disposition of this proceeding and are expressly limited
6 to this proceeding and any other proceeding or case in which the
7 Department, the state or federal government, or an agency of
8 this state, another state or the federal government is involved.

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

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

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DETERMINATION OF ISSUES

1
2 By reason of the foregoing stipulations and waivers
3 and solely for the purpose of settlement of the pending
4 Accusation without a hearing, it is stipulated and agreed that
5 the following determination of issues shall be made:

6 The conduct, acts and/or omissions of Respondent,
7 XIOMARA MENENDEZ OLIVA, as set forth in the Accusation,
8 constitutes cause to suspend or revoke the real estate license
9 and license rights of Respondent under the provisions of
10 Business and Professions Code Section 10177(d) for violation of
11 Business and Professions Code Section 10130.

ORDER

13 WHEREFORE, THE FOLOWING ORDER is hereby made:

14 I. All licenses and licensing rights of Respondent
15 XIOMARA MENENDEZ OLIVA, under the Real Estate Law are revoked;
16 provided, however, a restricted real estate salesperson license
17 shall be issued to Respondent pursuant to Section 10156.5 of
18 the Code if she makes application therefor and pays to the
19 Department the appropriate fee for the restricted license within
20 90 days from the effective date of this Decision.

22 The restricted license issued to Respondent shall be
23 subject to all of the provisions of Section 10156.7 of the Code
24 and to the following conditions, limitations and restrictions
25 imposed under the authority of Section 10156.6 of the Code:

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1 1. The restricted license issued to Respondent may be
2 suspended prior to hearing by Order of the Commissioner in the
3 event of her conviction or plea of nolo contendere to a crime
4 which is substantially related to her fitness or capacity as a
5 real estate salesperson licensee.

6 2. The restricted license issued to Respondent may be
7 suspended prior to hearing by Order of the Commissioner on
8 evidence satisfactory to the Commissioner that she has violated
9 provisions of the Real Estate Law, the Subdivided Lands Law,
10 Regulations of the Real Estate Commissioner or conditions
11 attaching to the restricted license.

12 3. Respondent shall not be eligible to apply for
13 issuance of an unrestricted real estate salesperson license nor
14 for the removal of any of the conditions, limitations or
15 restrictions of a restricted license until two (2) years have
16 elapsed from the effective date of this Decision.

17 4. Respondent shall submit with any application for
18 license under an employing broker, or any application for
19 transfer to a new employing broker, a statement signed by the
20 prospective employing real estate broker, on a form approved by
21 the Department, which shall certify:

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

25 and
26
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1 (b) That the employing broker will exercise
2 close supervision over the performance by the restricted
3 licensee relating to activities for which a real estate
4 salesperson license is required.

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

17
18 II. Any restricted real estate license issued to
19 Respondent XIOMARA MENENDEZ OLIVA, pursuant to this Decision
20 shall be suspended for forty-five (45) days from the date of
21 issuance of the restricted license;

22 Provided, however, said forty-five (45) day suspension
23 shall be stayed upon condition that:

24 1. Respondent pays a monetary penalty pursuant to
25 Section 10175.2 of the Business and Professions Code at the rate
26 of \$33.00 a day of the suspension for a total monetary penalty
27 of \$1,485.


1 2. Said payment shall be in the form of a cashier's
2 check or certified check made payable to the Recovery Account of
3 the Real Estate Fund. Said check must be received
4 by the Department prior to the effective date of the Decision
5 in this matter.

6 3. No further cause for disciplinary action against
7 the real estate license of Respondent occurs within
8 one (1) year from the effective date of the Decision in this
9 matter.

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

17 5. If Respondent pays the monetary penalty and if no
18 further cause for disciplinary action against the real estate
19 license of Respondent occurs within one (1) year from the
20 effective date of the Decision, the stay hereby granted shall
21 become permanent.

22
23 DATED: June 22, 2004


DARLENE AVERETTA, Counsel for
the Department of Real Estate

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* * *

1 I have read the Stipulation and Agreement. Its terms
2 are understood by me and are agreeable and acceptable to me.
3 I understand that I am waiving rights given to me by the
4 California Administrative Procedure Act (including but not
5 limited to Sections 11506, 11508, 11509 and 11513 of the
6 Government Code), and I willingly, intelligently and voluntarily
7 waive those rights, including the right of requiring the
8 Commissioner to prove the allegations in the Accusation at a
9 hearing at which I would have the right to cross-examine
10 witnesses against me and to present evidence in defense and
11 mitigation of the charges.
12

13 Respondent can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of its signature page, as actually signed by Respondent,
16 to the Department at the following telephone/fax number: (213)
17 576-6917. Respondent agrees, acknowledges and understands that
18 by electronically sending to the Department a fax copy of his or
19 her actual signature as it appears on the Stipulation and
20 Agreement, that receipt of the faxed copy by the Department
21 shall be as binding on Respondent as if the Department had
22 received the original signed Stipulation and Agreement.
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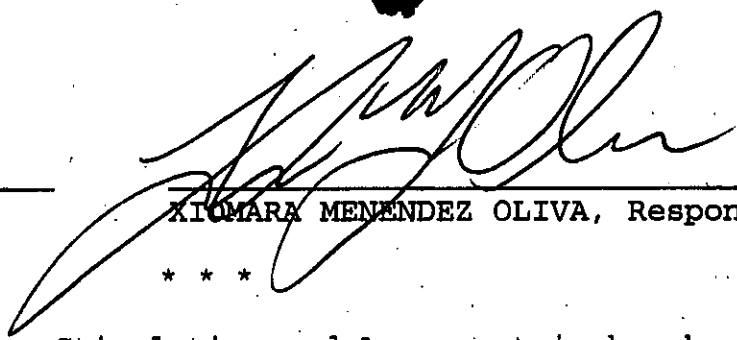
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DATED:

6/20/04



XIOMARA MENENDEZ OLIVA, Respondent

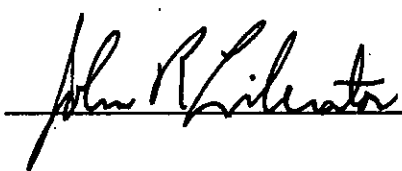
* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent XIOMARA MENENDEZ OLIVA
and shall become effective at 12 o'clock noon on
July 28, 2004.

IT IS SO ORDERED

July 2, 2004

JOHN R. LIBERATOR
Acting Real Estate Commissioner



50070

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

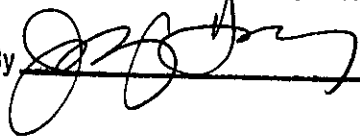
In the Matter of the Accusation of)
MIGUEL MENDEZ, individually and)
doing business as UPTOWN FUNDING)
and XIOMARA MENENDEZ OLIVA,)

Case No. H-30596 LA
OAH No. L-2004020578

FILED
APR 16 2004
DEPARTMENT OF REAL ESTATE

Respondents.

NOTICE OF HEARING ON ACCUSATION

By 

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on JUNE 24, 2004 and JUNE 25, 2004, 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

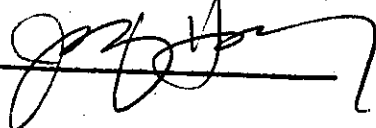
Dated: April 16, 2004

By 
DARLENE AVERETTA
Assistant Chief Counsel

cc: Miguel Mendez
Xiomara M. Oliva
Carl M. Bergkvist, Esq.
Sacto.
OAH

5270

1 MARY E. WORK, Counsel
SBN 175887
2 Department of Real Estate
320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone (213) 576-6982
-Direct- (213) 576-6916

FILED
DEC 24 2003
DEPARTMENT OF REAL ESTATE
By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) No. H-30596 LA
)
)
MIGUEL MENDEZ, individually and) ACCUSATION
)
doing business as UPTOWN FUNDING)
)
and XIOMARA MENENDEZ OLIVA,)
)
Respondents.

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for Accusation against
MIGUEL MENDEZ, individually and doing business as Uptown Funding
("Respondent MENDEZ") and XIOMARA MENENDEZ OLIVA aka Xiomara
Menendez ("Respondent OLIVA"), is informed and alleges as
follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, makes this Accusation
against Respondent in her official capacity.

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2.

At all times mentioned herein, Respondent MIGUEL MENDEZ ("MENDEZ") was and still is licensed by the Department of Real Estate of the State of California ("Department") as a real estate broker. At all times material herein Respondent had the business name "Uptown Funding" licensed to his broker license.

3.

Respondent XIOMARA MENENDEZ OLIVA ("OLIVA") was originally licensed by the Department as a real estate salesperson on or about January 14, 2002.

4.

On or about October 16, 2001, Respondent OLIVA and Respondent MENDEZ signed a "Broker-Associate Licensee Contract," three months before OLIVA was licensed as a real estate salesperson.

5.

During August 2001, Laurel Ann Koerner, the owner of real property located at 6611 Sherman Way, Bell Gardens, California ("subject property"), received a handwritten solicitation to sell said property signed by Xiomara Menendez (Respondent OLIVA). The solicitation stated that Menendez was "looking for a house in the area." Koerner contacted Respondent OLIVA to discuss the solicitation. Respondent OLIVA represented that she was a real estate agent and that she had a potential buyer for Koerner's property.

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6.

On or about October 21, 2001, Respondent OLIVA brought a Purchase Agreement and other documents to Koerner for her signature. Respondent OLIVA initialed each page of said Purchase Agreement in the box entitled "Reviewed by Broker or Designee." In addition Respondent obtained Koerner's signature on a form entitled "Disclosure Regarding Real Estate Agency Relationships" and Respondent OLIVA signed her own name as "Associate-Licensee or Broker," on behalf of broker Respondent MENDEZ. On or about October 27, 2001, escrow was opened with Carriage Escrow for the sale of the subject property and assigned escrow number 6395-SC.

7.

On or about February 6, 2002 escrow closed on the subject project. On February 7, 2002, Respondent MENDEZ paid Respondent OLIVA a commission check in the amount of \$4,262.50.

8.

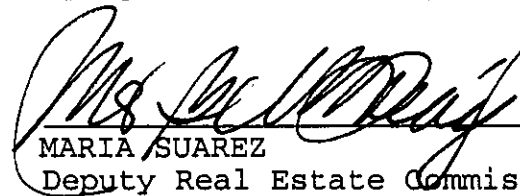
The acts and omissions of Respondent MENDEZ, as set forth in Paragraphs 4, 5, 6 and 7 herein above, are in violation of Section 10137 of the California Business and Professions Code (hereinafter "Code"), and are grounds for the suspension or revocation of the licenses and license rights of Respondent MENDEZ pursuant to Sections 10137, 10177(d), 10177(g) and/or 10177(h) of the Code.

9.

The acts and omissions of Respondent OLIVA, as set

1 forth in Paragraphs 4, 5, 6 and 7 herein above, are in violation
2 of Sections 10130 and 10137 of the Code and are grounds for the
3 suspension or revocation of the licenses and license rights of
4 Respondent pursuant to Sections 10137, 10177(c), 10177(d),
5 10177(f) and/or 10177(g) of the Code.

6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof a decision be rendered imposing disciplinary action
9 against all licenses and license rights of Respondents MIGUEL
10 MENDEZ, individually and doing business as Uptown Funding and
11 XIOMARA MENENDEZ OLIVA under the Real Estate Law (Part 1 of
12 Division 4 of the Business and Professions Code) and for such
13 other and further relief as may be proper under other provisions
14 of law.

15 
16 MARIA SUAREZ
Deputy Real Estate Commissioner

17 Dated at Los Angeles, California,
18 this 22nd day of December, 2003.

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21 cc: Miguel Mendez
22 Xiomara Menendez Oliva
23 Maria Suarez
24 SACTO
25 RJ
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