

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

3 (213) 576-6982
4 (213) 576-6907

FILED
DEC 8 2004
DEPARTMENT OF REAL ESTATE

By Jana B. Quin

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) DRE No. H-30828 LA
13 JORGE ANTONIO SAUCEDO,) OAH No. L-2004040590
14 dba Cartel Investment Capital,)
Chase Investment Capital, and) STIPULATION AND AGREEMENT
15 Structural Realty,)
16 Respondent.)

17 It is hereby stipulated by and between JORGE ANTONIO
18 SAUCEDO, dba Cartel Investment Capital, Chase Investment
19 Capital, and Structural Realty, (sometimes referred to herein
20 as "Respondent"), acting on his own behalf, and the
21 Complainant, acting by and through Martha J. Rosett, Counsel
22 for the Department of Real Estate, as follows for the purpose
23 of settling and disposing of the Accusation filed on
24 April 7, 2004 in this matter:

25 1. All issues which were to be contested and all
26 evidence which was to be presented by Complainant and
27 Respondent at a formal hearing on the Accusation, which hearing

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

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

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

22 4. Respondent, pursuant to the limitations set forth
23 below, although not admitting or denying the truth of the
24 allegations, will not contest the factual allegations contained
25 in the Accusation filed in this proceeding and the Real Estate
26 Commissioner shall not be required to provide further evidence
27 of such allegations.

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

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

19 7. This Stipulation and Respondent's decision not to
20 contest the Accusation are made for the purpose of reaching an
21 agreed disposition of this proceeding, and are expressly
22 limited to this proceeding and any other proceeding or case in
23 which the Department of Real Estate ("Department"), or another
24 licensing agency of this state, another state or if the federal
25 government is involved and otherwise shall not be admissible in
26 any other criminal or civil proceedings.

27

1 8. Respondent understands that by agreeing to this
2 Stipulation and Agreement, Respondent agrees to pay, pursuant
3 to Section 10148 of the Business and Professions Code, the cost
4 of the audit which led to this disciplinary action. The amount
5 of said cost is \$2,594.99.

6 9. Respondent has received, read and understands the
7 "Notice Concerning Costs of Subsequent Audit". Respondent
8 further understands that by agreeing to this Stipulation and
9 Agreement, the findings set forth below in the Determination of
10 Issues become final, and that the Commissioner may charge
11 Respondent for the costs of any subsequent audit conducted
12 pursuant to Section 10148 of the Business and Professions Code
13 to determine if the violations have been corrected. The
14 maximum cost of said audit will not exceed \$2,804.23.

15 DETERMINATION OF ISSUES

16 By reason of the foregoing stipulations and waivers
17 and solely for the purpose of settlement of the pending
18 Accusation without a hearing, it is stipulated and agreed that
19 the following Determination of Issues shall be made:

20 The conduct, acts or omissions of Respondent JORGE
21 ANTONIO SAUCEDO, as set forth in the Accusation, constitute
22 cause to suspend or revoke the real estate license and license
23 rights of Respondent JORGE ANTONIO SAUCEDO under the provisions
24 of Business and Professions Code ("Code") Sections 10177(d) and
25 10177(g) for violation of Code Sections 10145, Code Section
26 10240, and Sections 2831, 2831.1, 2831.2, 2835, 2950(h), and
27 2951 of Title 10, Chapter 6, California Code of Regulations.

1 from the effective date of this Decision; provided, however,
2 that if Respondent petitions, the remaining 60 days of said 120
3 day suspension shall be stayed upon condition that:

- 4 1. Respondent pays a monetary penalty pursuant to
5 Section 10175.2 of the Business and Professions Code
6 at the rate of \$100 for each day of the suspension
7 for a total monetary penalty of \$6,000.00.
- 8 2. Said payment shall be in the form of a cashier's
9 check or certified check made payable to the Recovery
10 Account of the Real Estate Fund. Said check must be
11 received by the Department prior to the effective
12 date of the Decision in this matter.
- 13 3. No further cause for disciplinary action against
14 the real estate license of Respondent occurs within
15 two years of the Decision in this matter.
- 16 4. If Respondent fails to pay the monetary penalty
17 in accordance with the terms and conditions of the
18 Decision, the Commissioner may, without a hearing,
19 order the immediate execution of all or any part of
20 the stayed suspension in which event the Respondent
21 shall not be entitled to any repayment nor credit,
22 prorated or otherwise, for the money paid to the
23 Department under the terms of this Decision.
- 24 5. If Respondent pays the monetary penalty and if no
25 further cause for disciplinary action against the
26 real estate license of Respondent occurs within two
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1 years from the effective date of the Decision, the
2 stay hereby granted shall become permanent.

3 III. All licenses and licensing rights of Respondent

4 shall be indefinitely suspended unless or until he provides
5 proof satisfactory to the Commissioner, of having taken and
6 successfully completed the trust fund accounting and handling
7 course specified in paragraph (3) of subdivision (a) of
8 Business and Professions Code Section 10170.5. Proof of
9 satisfaction of this requirement includes evidence that
10 Respondent has successfully completed the trust fund accounting
11 and handling continuing education course within 120 days prior
12 to the effective date of the Decision in this matter.

13 IV. Pursuant to Section 10148 of the Business and

14 Professions Code, Respondent JORGE ANTONIO SAUCEDO shall pay
15 the Commissioner's reasonable cost for: a) the audit which led
16 to this disciplinary action and, b) a subsequent audit to
17 determine if Respondent has corrected the trust fund violations
18 found in the Determination of Issues. In calculating the
19 amount of the Commissioner's reasonable cost, the Commissioner
20 may use the estimated average hourly salary for all persons
21 performing audits of real estate brokers, and shall include an
22 allocation for travel costs, including mileage to and from the
23 auditor's place of work and per diem. Respondent shall pay
24 such cost within 60 days of receiving an invoice from the
25 Commissioner detailing the activities performed during the
26 audit and the amount of time spent performing those activities.
27 The Commissioner may, in his discretion, vacate and set aside

1 the stay order if payment is not timely made as provided
2 herein, or as provided for in a subsequent agreement between
3 the Respondent and the Commissioner. The vacation and the set
4 aside of the stay shall remain in effect until payment is made
5 in full, or until Respondent enters into an agreement
6 satisfactory to the Commissioner to provide for payment. Should
7 no order vacating the stay be issued, either in accordance with
8 this condition or condition I, II, or III, the stay imposed
9 herein shall become permanent.

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

17
18 DATED: 4/12/04 Martha J. Rosett
19 MARTHA J. ROSETT
Counsel for Complainant

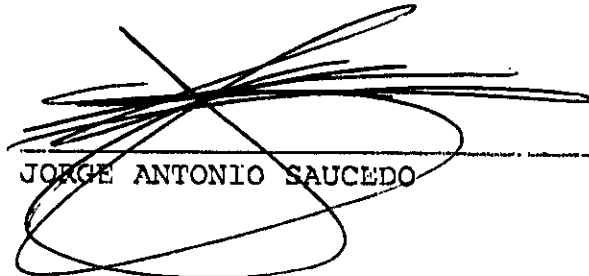
20 * * *

21 I have read the Stipulation and Agreement, have
22 discussed it with my attorney, and its terms are understood by
23 me and are agreeable and acceptable to me. I understand that I
24 am waiving rights given to me by the California Administrative
25 Procedure Act (including but not limited to Sections 11506,
26 11508, 11509 and 11513 of the Government Code), and I
27

1 willingly, intelligently and voluntarily waive those rights,
 2 including the right of requiring the Commissioner to prove the
 3 allegations in the Accusation at a hearing at which I would
 4 have the right to cross-examine witnesses against me and to
 5 present evidence in defense and mitigation of the charges.

6 Respondent can signify acceptance and approval of the
 7 terms and conditions of this Stipulation and Agreement by faxing
 8 a copy of its signature page, as actually signed by Respondent,
 9 to the Department at the following fax number (213) 576-6917.
 10 Respondent agrees, acknowledges and understands that by
 11 electronically sending to the Department a fax copy of his actual
 12 signature as it appears on the Stipulation, that receipt of the
 13 faxed copy by the Department shall be as binding on Respondent as
 14 if the Department had received the original signed Stipulation
 15 and Agreement.

16 DATED: 10/20/04



 JORGE ANTONIO SAUCEDO

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13 faxed copy by the Department shall be as binding on Respondent as
14 if the Department had received the original signed Stipulation
15 and Agreement.

16
17 DATED: _____ JORGE ANTONIO SAUCEDO

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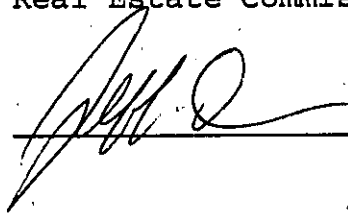
* * *

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1 The foregoing Stipulation and Agreement is hereby
2 adopted as my Decision in this matter and shall become
3 effective at 12 o'clock noon on DEC 28 2004.

4 IT IS SO ORDERED November 24 2004.

5 JEFF DAVI
6 Real Estate Commissioner

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Sacto Sen

FILED
Jul 16 2004
DEPARTMENT OF REAL ESTATE

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

By *Jane B. Sen*

In the Matter of the Accusation of

JORGE ANTONIO SAUCEDO,

Case No. H-30828 LA

OAH No. L-2004040590

Respondent

**AMENDED
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 the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California on **OCTOBER 22 & 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.

Dated: July 16, 2004

DEPARTMENT OF REAL ESTATE
By *Martha J. Rosett*
MARTHA J. ROSETT, Counsel

cc: Jorge Antonio Saucedo
Sacto.
OAH

Sacto
you

FILED
MAY 19 2004
DEPARTMENT OF REAL ESTATE

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

By Laura B. Olin

In the Matter of the Accusation of

JORGE ANTONIO SAUCEDO,

}

Case No. H-30828 LA

OAH No. L-2004040590

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 the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, California on **JULY 19, 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.

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DEPARTMENT OF REAL ESTATE

Dated: May 19, 2004

By Martha J. Rosett
MARTHA J. ROSETT, Counsel

cc: Jorge Antonio Saucedo
Sacto.
OAH

Saucedo
Mar

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

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

FILED
APR 7 2004
DEPARTMENT OF REAL ESTATE

By Laura B. Chan

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)	No. H-30828 LA
JORGE ANTONIO SAUCEDO, dba Cartel)	<u>A C C U S A T I O N</u>
Investment Capital, Chase Investment)	
Capital, and Structural Realty,)	
Respondent.)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner, for cause of Accusation against JORGE ANTONIO SAUCEDO, dba Cartel Investment Capital, Chase Investment Capital and Structural Realty, is informed and alleges as follows:

1.

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

2.

Respondent JORGE ANTONIO SAUCEDO, dba Cartel Investment

1 Capital, Chase Investment Capital and Structural Realty,
2 (hereinafter "Respondent"), is presently licensed and at all
3 times relevant herein was licensed under the Real Estate Law,
4 Part 1 of Division 4 of the California Business and Professions
5 Code (hereinafter "Code") as a real estate broker. Respondent
6 has been licensed by the Department of Real Estate of the State
7 of California (hereinafter "Department") as a real estate broker
8 since December 21, 1995.

9
10 3.

11 At all times material herein, Respondent was and is
12 engaged in the business of, acted in the capacity of, advertised
13 or assumed to act as a real estate broker in the State of
14 California within the meaning of Code Section 10131(d) and (a)
15 for another or others in expectation of compensation. Said
16 activity included negotiating mortgage loans for borrowers and
17 financial institutions under the dba "Chase Investment Capital,"
18 performing broker escrows under the dba "Cartel Investment
19 Capital," and negotiating residential re-sales under the dba of
20 "Structural Realty." Respondent conducted escrow activities
21 pursuant to Financial Code Section 17006(a)(4).

22 4.

23 All further references to "Respondent" includes
24 Respondent SAUCEDO and also includes the employees, agents and
25 real estate licensees employed by or associated with Respondent,
26 who at all times material herein were engaged in the furtherance
27

1 of the business or operations of Respondent and who were acting
2 within the course and scope of their authority, agency or
3 employment.

4 5.

5 During the period between January 1, 2001 through
6 February 28, 2002, in connection with the aforesaid mortgage loan
7 brokerage, escrow and re-sale activities, Respondent accepted or
8 received funds, including funds in trust (hereinafter "trust
9 funds") from or on behalf of actual and prospective borrowers,
10 lenders and purchasers of real property, and made deposits and/or
11 disbursements of such funds. From time to time herein mentioned,
12 said trust funds were deposited into a trust account maintained
13 by Respondent at Wells Fargo Bank in Anaheim, California,
14 identified as follows:

15 Account No. 002-0636831, "Cartel Investment Capital
16 Structural Realty Escrow Trust Account," Wells Fargo Bank,
17 2099 S. State College Drive, Suite 101, Anaheim, California,
18 92806.

19 Respondent SAUCEDO was the only signer on this account.
20 These accounts were used as a depository for money collected by
21 Respondent on behalf of borrowers, lenders and purchasers of real
22 property.

23 6.

24 On or about April 18, 2002, the Department completed
25 its examination of Respondent's books and records, pertaining to
26 the mortgage loan, escrow and re-sale real estate activities
27 described in Paragraphs 3 and 5, covering a period from

1 approximately January 1, 2001 through February 28, 2002. The
2 primary purpose of the examination was to determine Respondent's
3 compliance with the Real Estate Law. The examination, Audit No.
4 LA 010292, revealed violations of the Code and of Title 10,
5 Chapter 6, California Code of Regulations ("Regulations"), as set
6 forth below, and as more specifically set forth in Audit Report
7 No. LA 010292 and attached exhibits.

8 7.

9 In the course of activities described in Paragraphs 3
10 and 5 above, and during the examination period described in
11 Paragraph 6, Respondent acted in violation of the Code and the
12 Regulations in that:

13 a) As of February 28, 2002, the Trust Account had a
14 overage of \$5,796.30 which consisted of \$1,129.29 of earnings
15 credits from the bank and an unidentified amount of \$4,6667.01,
16 in violation of Code Section 10145;

17 b) Respondent failed to maintain a record of all
18 escrow trust funds received and disbursed during the audit
19 period, in violation of Regulation 2831;

20 c) The separate records for each escrow lacked the
21 dates the funds were received and did not contain balances after
22 each transaction, in violation of Regulation 2831.1 and Code
23 Section 10145. Some examples of escrow transactions for which
24 inadequate records were kept include:

<u>Borrower</u>	<u>Escrow No.</u>	<u>Date Closed</u>
Jaime Zamarron	189	1/31/02
Mauricio Barrera	205	2/13/02

1 Milton McDonald 209 2/28/02
 2 c) Respondent failed to perform a monthly
 3 reconciliation of the separate records for each escrow with a
 4 control account record, in violation of Regulation 2831.2 and
 5 Code Section 10145;

6 d) Respondent retained the majority of his escrow and
 7 notary fees in the escrow trust account in excess of 25 days by
 8 not cashing checks issued for said fees within 25 days and using
 9 the funds to pay personal expenses and/or operating expenses, and
 10 commingling his personal funds with trust funds, in violation of
 11 Regulation 2835 and Code Section 10145;

12 e) The escrow trust account was credited monthly by
 13 the bank for earnings credits which are based on the amount of
 14 escrow funds on deposit, which interest inured to the benefit of
 15 Respondent, in violation of Regulation 2830.1(e) and Code Section
 16 10145;

17 f) Respondent failed to advise all parties in writing
 18 of his ownership interest in the escrow division, in violation of
 19 Regulation 2950(h). Examples of transactions in which parties
 20 were not advised in writing of Respondent's ownership interest
 21 include:

<u>Borrower(s)</u>	<u>Escrow No.</u>	<u>Date of Instructions</u>
Hetman/Castillo	213	1/18/02
Pineda	217	1/21/02
Areas	220	1/21/02

26 g) Respondent failed to maintain proper records while
 27 acting in the capacity of an escrow holder in loan transactions,

1 as set forth above, in violation of Regulation 2951.

2 h) Respondent failed to maintain on file a Mortgage
3 Loan Disclosure Statement as signed by the borrower and/or the
4 Good Faith Estimates did not contain all the required
5 information, in violation of Code Section 10240. Sample
6 transactions include:

7	<u>Borrower(s)</u>	<u>Date of Loan App.</u>	<u>Date of GFE</u>
8	Zamarron	10/06/01	10/06/01
9	Barrera	11/28/01	11/28/01
10	Hetman	12/15/01	not dated

11 The foregoing violations constitute cause for the
12 suspension or revocation of Respondent's real estate license and
13 license rights under the provisions of Code Sections 10177(d),
14 10176(e), and/or 10177(g).

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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and/or license rights of Respondent
5 JORGE ANTONIO SAUCEDO under the Real Estate Law and for such
6 other and further relief as may be proper under applicable
7 provisions of law.

8 Dated at Los Angeles, California
9 this 30th day of March, 2004.

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13 Deputy Real Estate Commissioner
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21 cc: Jorge Antonio Saucedo
22 Sacto.
23 Maria Suarez
24 ST
25 Audits/Revilla
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