

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

In the Matter of the Accusation Against:

CARLOS ANTHONY MARADIAGA,
NATALIE ESTHER MARQUEZ, M.D.
LENDING GROUP, INC., and MAURICIO
A. DUENAS,

Respondents

Case No. H-35768

OAH No. 2009060001

PROPOSED DECISION

The hearing in the above-captioned matter was held on October 8, 2009, before Joseph D. Montoya, Administrative Law Judge (ALJ), Office of Administrative Hearings. Complainant was represented by James R. Peel, Counsel, Department of Real Estate. Respondents Mauricio A. Duenas and M.D. Lending Group, Inc. were represented by their attorney, Florence Mond. Respondents Natalie Marquez and Carlos A. Maradiaga appeared and represented themselves.¹

Evidence was received, the case was argued, and the matter submitted for decision on the hearing date. The ALJ hereby makes his factual findings, legal conclusions, and orders:

FACTUAL FINDINGS

The Parties and Jurisdiction:

1. Complainant Robin L. Trujillo filed and maintained the Accusation in this matter while acting in her official capacity as a Deputy Real Estate Commissioner of the Department of Real Estate (Department).

2. (A) Respondent Carlos Anthony Maradiaga (Maradiaga) is currently licensed as a real estate broker. He has been licensed as a broker since approximately 1985. He is authorized to use two fictitious names, usmoneyline and usmoneyline.com.

¹ Although Respondent Maradiaga failed to file a notice of defense, Complainant's counsel waived that matter so that Maradiaga could participate in the hearing and present any defense that he had.

(B) Respondent Natalie Esther Marquez is licensed by the Department as a real estate salesperson, and has been so licensed since May 2004.

(C) Respondent M.D. Lending Group, Inc. (MD Lending) is a corporation licensed to act as a real estate broker. Its designated broker is Respondent Mauricio Duenas. The firm has been licensed since at least July 2005.

(D) Respondent Mauricio A. Duenas is licensed as a real estate broker, and has been since 1993. He is the licensed officer of Respondent MD Lending, and he is authorized to use the fictitious names M.D. Investments, M.D. Lending Group, and M.D. Real Estate.

(E) There is no record of prior disciplinary action by the Department against any of the Respondents.

3. This proceeding arises out of two real estate transactions, wherein Ms. Maria Elena Rodriguez (Rodriquez) purchased two residential properties, although she was led to believe she was just facilitating the purchase for another person, essentially providing her credit. As detailed below, she dealt primarily with Respondents Maradiaga and Marquez, but the transactions were run through MD Lending. In each case, significant misrepresentations were made in order to consummate the sales.

The Royal Oaks Transaction:

4. In late 2005 or early 2006,² Rodriquez was approached by her sister, Ms. Ryster (Ryster,) and Marquez, who is the daughter of Ryster. The two proposed a business venture. This offer came to Rodriquez, then recently divorced, at a time when she was interested in taking out a second mortgage on the house that she owned and lived in with her disabled son. During a meeting at Marquez's office, the two women proposed that they borrow Rodriquez's credit, for a fee that would be paid to Rodriquez.

5. Marquez told Rodriquez that she and Maradiaga needed a loan against a property they owned, because they were overextended, but they only needed the loan

² The timing of some events is not completely clear. Ms. Rodriquez testified that she was approached about the transaction in 2006, but the sales contract for the Royal Oaks property is dated November 2005. However, the loan documents were ostensibly signed in February 2006. Given the fraudulent nature of the two transactions, the purchase agreement for the Royal Oaks property might have been backdated.

for approximately six months. Eventually Maradiaga was brought into the discussion, when Rodriguez asked if what was proposed was legal. He assured her that it was, and that the proposed transaction was the type that was done "all the time." The two Respondents told Rodriguez that they would pay her a fee of \$5,000 for her assistance, which would obviate her need for taking out a second on her own residence. She then agreed to the transaction, as she understood it, and signed a number of papers that Marquez presented to her.

6. Among the papers that Rodriguez signed, or initialed, were a purchase agreement for a house located at 1001 Royal Oaks Drive, Monrovia, California (Royal Oaks). The purchase price was \$699,000, and the seller was shown as Richard Ruiz. The purchase agreement was dated November 10, 2005. According to the sale agreement, escrow was to close in 20 days, on November 30, 2005, and it was expressly provided that there was no loan contingency in the contract; the contract provided that the amount of the first loan was \$699,000. (Ex. 3, p.1.) No provisions were made for who was to pay for the termite report (*Id.*, p. 2) although the owner was to pay for the title report. The buyer was not provided with any inspection contingencies. (*Id.*, p. 4.)

7. The agent in the transaction was identified as "usmoneyline;" that agency was stated to be for both the buyer and seller. (Ex. 3, p. 7; see also p. 8.)

8. (A) A Uniform Residential Loan Application was prepared and Rodriguez signed or initialed parts of it. It indicates that Rodriguez signed it on February 15, 2006. It states that Rodriguez would use the property as her primary residence, and that she has no dependents. It further states that she had been employed for over 10 years by a property management firm called GND Services, as a property manager, and that she was also employed by Laidlaw Transit, Inc., as a bus driver.

(B) The loan application states that she had employment income of \$7,150 per month from the property management firm, along with \$2,975 in alimony payments, and \$1,575 from her "second job," meaning the bus driving job. According to the loan application, she was then paying \$791 per month for her mortgage, and that after the purchase closed, she would be paying a total of \$5,375.55 per month in mortgage payments. The loan application also stated that Rodriguez was renting out the house where she lived, and that her gross income from that rental was \$2,988 per month. Thus, the loan application represented that Rodriguez had income of \$13,113 per month.

(C) At the end of the loan application, it is stated that Rodriguez had been interviewed, in a face-to-face interview, by Mauricio Duenas, of M.D. Lending Group, Inc. It purports to have been signed by him on February 15, 2006. However, the signature purporting to be Duenas's is not his.

9. The representations in the loan application, set out in Factual Finding 8, were false, excepting the representation that Rodriguez was employed as a bus driver and that she was paid just under \$1,600 per month. That part is true, though it was not a second job; it was her only job. All of the other statements were false, including the statement that Rodriguez had been interviewed by Duenas. As detailed hereafter, she did not meet Duenas until after the Royal Oaks transaction, and a second transaction, closed. Her purported employer, GND Services, is a firm owned in whole or in part by the husband of Ryster, Rodriguez's sister.

10. Although the contract called for escrow to close at the end of November 2005, it did not close until March 21, 2006. According to the settlement statement issued by the escrow company, a broker's commission of \$41,940 was paid to "USMoneyline." Various fees, including broker's fees, a loan origination fee, an administration fee, and fees for items such as an appraisal, processing fee, and credit report, were paid to Respondent MD Lending. Those fees totaled, according to the settlement statement, \$21,016.

11. The loan was facilitated by MD Lending, in that payments due under the transaction were paid to MD Lending, rather than being paid directly to Maradiaga or his firm. Duenas, on behalf of MD Lending, wrote checks to Maradiaga totaling \$17,153.50. A single check was written to Marquez for \$3,000.

12. During the hearing, Maradiaga acknowledged that Ryster was being used as a "promoter" by his firm, and that she was paid a fee for bringing her sister to his firm. He paid that non-licensee between five and ten thousand dollars for the transactions involving Rodriguez.

The South 8th Street Transaction:

13. At about the time that Rodriguez signed the loan application for the Royal Oaks property, a second loan application was prepared, so that she could buy a house located at 1809 South 8th Street, Alhambra, California (8th Street), for \$730,000. The loan application for the 8th Street transaction was in fact two applications, one to borrow \$584,000, and one to borrow \$148,000.

14. Each of the loan applications was ostensibly signed by Rodriguez on February 2, 2006, or before the date of the Royal Oaks transaction, and on each application it indicates that Respondent Duenas interviewed Rodriguez personally, on that same date. However, as in the Royal Oaks loan application, Mr. Duenas did not interview Rodriguez, and he did not sign the loan application form.

15. The copies of the loan applications that were obtained by the Department, and received in evidence, are missing the second page, the page where the borrower's income would be stated. At the hearing, there was testimony that a "corresponding

lender" was involved in the transaction, and their handling of the matter may have led to the disappearance of the second page of the loan applications. However, each document contains the page pertaining to the borrower's assets, and in each case it shows that Ms. Rodriguez's home was being rented, with a net income to her of \$2,988 per month. This was a false statement.

16. Like the loan application for the Royal Oaks property, each of the loan applications pertaining to the 8th Street property loans represent that the house would be Rodriguez's primary residence, another false representation.

17. A document entitled "real estate purchase agreement" was purportedly signed by the sellers on March 28, 2006. It is not on a standard form. It has nine sentences setting out the terms of the sale, i.e., "1) Purchase prices to be 730,000." (Ex. 4.) The Department, in investigating this transaction, could not obtain a copy signed by Rodriguez.

18. According to the settlement statement generated by the escrow company, the escrow closed on May 3, 2006. The document indicates that no broker's fees or commissions were paid on the transaction, but a loan origination fee of \$5,840 was paid to First Platinum, and another loan origination fee of \$17,520 was paid to MD Lending. Processing and application fees of \$1,990 were paid to MD Lending, and various fees were paid to First Platinum, the latter receiving \$1,505.

Events Following Completion of the Sales:

19. Sometime after the escrows closed, Rodriguez realized that she had done more than "loan her credit" to her niece and her niece's boyfriend (Marquez and Maradiaga live together, and have children together). Both the Royal Oaks and 8th Street Properties were occupied by persons she understood to be tenants, and she later learned that those persons were real estate salespeople, with connections to Maradiaga. They would not pay her rent, and she attempted to have them evicted. Ryster was attempting to help her, but from the testimony, it appears that Rodriguez was being strung along by her sister, who told her that the tenant had appealed, and nothing further could be done to evict the person.

20. Rodriguez went to her niece for help, but the latter spurned her requests. Rodriguez, who had not received all the paperwork related to the transactions, eventually was able to obtain documents from the escrow company. Those documents revealed the existence of Respondent Duenas.

21. Rodriguez went to Duenas's office and spoke to him about the matters. The two had never met before that day. After discussing the matter with her, Duenas told her there was nothing that he could do about the situation. He told her that he

had made less than \$1,000 on the transactions, and that her sister was involved in the transactions; he conveyed to her that her sister's role had been less than wholesome.

22. Rodriguez had received approximately \$15,000 from Marquez, in a check made payable to Rodriguez's son, which she understood was to be used to pay the mortgage for a period of time.³ However, that money was soon exhausted, and, unable to pay the mortgages, the properties have gone into foreclosure. Ms. Rodriguez's credit, once impeccable, is in a shambles.

Other Findings Necessary to Resolve the Case:

23. Rodriguez was credible in her testimony in terms of her demeanor. It should be noted that she only has an 11th grade education, and was plainly unsophisticated in business matter.

24. Duenas was credible in his demeanor while testifying, and his testimony was consistent with his interviews with the Department's investigator, which occurred prior to the initiation of this proceeding. He acknowledged that he was wrong to allow Maradiaga to utilize his license, and to trust him not to misuse it, even though he had known Maradiaga for years, without any untoward incidents. He apparently believed that he was simply helping Maradiaga speed the process of closing two deals, and he made approximately \$1,000 for his assistance. He did acknowledge that in transactions such as these, where the same broker represents both buyer and seller, and is handling the loan, that the lending process is slowed; apparently it did not occur to him that such might rightfully cause more scrutiny of the transaction by the lenders. Duenas exhibited remorse for his conduct, in marked contrast to the other Respondents. Witnesses appeared on his behalf, including two licensees, who attested that he is of good character, and that despite this matter they would work with him again.

25. (A) Maradiaga testified on his own behalf. He claimed that the two transactions were brought to his office, and that Rodriguez was interested in buying the Royal Oaks property. His "promoter," Ryster, is the one who brought the business in. He asserted that the loan application was already filled out when Marquez took it, but admitted that he typed up the contract for the purchase of the Royal Oaks property and presented it to the seller. He asserted that his firm did not have the resources to be approved by the lenders, and hence the loan had to go through MD Lending. He later testified that "we" handled the financing on the 8th

³ The testimony by Ms. Rodriguez was not clear as to when the money was given to her. However, the closing statement for the 8th Street Property shows, at line 1308, an "accommodation payoff to David Janes Rodriguez" in the sum of \$14,267. (Ex. 4.) It also shows an accommodation payoff of \$10,000 to a Derek Marquez.

Street property, and that the loan was brought in by a non-licensee. However, he could not explain why Rodriguez was charged a "loan origination fee" payable to MD Lending, in excess of \$17,000, if his firm was handling the financing.

(B) Maradiaga also testified that his parents were ill, in the hospital, during the period when these transactions took place, which kept him from having his complete attention on his business.

26. Maradiaga's credibility suffered during his testimony. While his demeanor was adequate, his contentions were not consistent or credible, as he admitted that he and Marquez received approximately \$77,000 from the two transactions. He at times tried to shift some of the blame to Marquez, as he asserted she had a hand in typing the loan application documents, but the record is clear that he had to know that the two loan applications were complete falsehoods. He also, at times, appeared to blame Ryster, the unlicensed salesperson that he paid thousands of dollars to in the course of the transactions.

27. Ms. Marquez testified on her own behalf. She would have it believed that her main role in the Royal Oaks transaction was to fax some papers to a lender. Apparently, she never spoke to her mother about the fact that her aunt, Rodriguez, was a bus driver, and nothing more. Overall, her testimony boiled down to the notion that she knew little or nothing about the two transactions. Her contentions were not credible.

LEGAL CONCLUSIONS

1. Cause was established to discipline the licenses held by Respondents Marquez, Maradiaga, MD Lending, and Duenas, and each of them, for violating Business and Professions Code section 10176, subdivision (a), by making substantial misrepresentations in connection with two real estate transactions. This Conclusion is based on Factual Findings 3 through 27.

2. Cause was established to discipline the licenses held by Respondents Marquez, Maradiaga, MD Lending, and Duenas, and each of them, for violating Business and Professions Code section 10177, subdivision (j), in that they engaged in conduct that constituted fraud and dishonest dealing in connection with two real estate transactions. This Conclusion is based on Factual Findings 3 through 27.

3. Based on Legal Conclusions 1 and 2, and their factual predicates, cause exists to discipline the licenses held by Respondents Marquez, Maradiaga, MD Lending, and Duenas, and each of them, for violating Business and Professions Code section 10177, subdivision (f), in that such acts would justify the denial of an application for a real estate license.

4. Cause was not established to discipline the license held by Duenas under the alleged Second Cause of Accusation, as no evidence was offered in support of that claim.

5. (A) It is long-settled that the purpose of proceedings of this type are to protect the public, and not to punish an errant licensee. (E.g., *Camacho v. Youde* (1979) 95 Cal.App.2d 161, 164; *Hughes v. Board of Architectural Examiners* (1998) 17 Cal.4th 763, 784-786.) Here Respondents Maradiaga and Marquez exhibited no remorse for their conduct, instead seeking to blame others or to feign ignorance of the particulars of two transactions that damaged Rodriguez and lenders, while putting \$77,000 in their pockets. Plainly, the public is endangered by real estate professionals who would systematically perpetrate such frauds.

(B) There is no evidence that Duenas fomented either of the fraudulent schemes, although he did facilitate them, in that he did not review any of the documents in question or turned a blind eye to them while assisting in obtaining the loans. At bottom, his misconduct was not as severe as that of the other individual Respondents. At the same time, he showed remorse and recognition of the fact that his unprofessional conduct contributed to the scheme, which was response was unlike that of the instigators of the scheme. In the circumstances, a disciplinary response less than the ultimate sanction should be adequate to protect the public.

ORDER

1. All licenses and licensing rights of Respondent Carlos Anthony Maradiaga under the Real Estate Law are hereby revoked.

2. All licenses and licensing rights of Respondent Natalie Esther Marquez under the Real Estate Law are hereby revoked.

3. All licenses and licensing rights of Respondents M.D. Lending Group, Inc. and Mauricio A. Duenas under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to each Respondent pursuant to section 10156.5 if such Respondent makes application therefore and pays to the Department of Real Estate the appropriate fee for the restricted license within 90 days from the effective date of this Decision. The restricted license issued to Respondent(s) shall be subject to all of the provisions of section 10156.7 and the following limitations, conditions, and restrictions imposed under authority of section 10156.6:

(A) Any restricted license issued to Respondent M.D. Lending Group, Inc. or to Respondent Duenas pursuant to this decision shall be suspended for 30 days from the date of issuance of said restricted license.

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

(C) The restricted license issued to Respondent(s) may be suspended prior to hearing by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted license.

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

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

(F) Respondent Duenas shall, within one year of the effective date of this Decision, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent Duenas fails to satisfy this condition, the Commissioner may order suspension of his license until Respondent passes the examination.

(G) Respondents shall report in writing to the Department as the Real Estate Commissioner shall direct by his Decision herein or by separate written order issued with the restricted license is in effect such information concerning the Respondents' activities for which a real estate license is required as the Commissioner shall deem to be appropriate to protect the public interest.

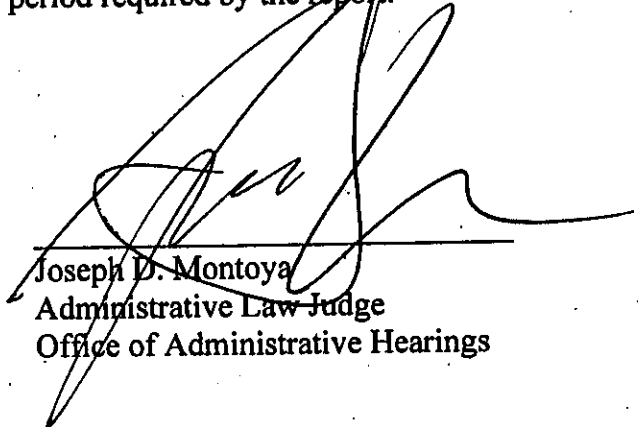
Such reports may include, but shall not be limited to, periodic independent accountings of trust funds in the custody and control of the Respondents

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and periodic summaries of salient information concerning each real estate transaction in which Respondent engaged during the period required by the report.

November 17, 2009



Joseph D. Montoya
Administrative Law Judge
Office of Administrative Hearings

5/10/09
Flag

FILED
MAR 11 2009
DEPARTMENT OF REAL ESTATE
by *[Signature]*

1 JAMES R. PEEL, Counsel (SBN 47055)
2 Department of Real Estate
3 320 West Fourth Street, Suite 350
4 Los Angeles, CA 90013-1105
5
6
7
8 Telephone: (213) 576-6982
9 -or- (213) 576-6913 (Direct)

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of) No. H-35768 LA
12)
13 CARLOS ANTHONY MARADIAGA,) A C C U S A T I O N
14 NATALIE ESTHER MARQUEZ,)
15 M. D. LENDING GROUP, INC.,)
And MAURICIO A. DUENAS,)
Respondents.)

16 The Complainant, Robin L. Trujillo, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 accusation against CARLOS ANTHONY MARADIAGA, NATALIE ESTHER
19 MARQUEZ, M. D. LENDING GROUP, INC., and MAURICIO A. DUENAS,
20 alleges as follows:

21 1.

22 The Complainant, Robin L. Trujillo, acting in her
23 official capacity as a Deputy Real Estate Commissioner of the
24 State of California, makes this Accusation against CARLOS ANTHONY
25 MARADIAGA, NATALIE ESTHER MARQUEZ, M. D. LENDING GROUP, INC., and
26 MAURICIO A. DUENAS.

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CARLOS ANTHONY MARADIAGA, dba usmoneyline, NATALIE ESTHER MARQUEZ, M. D. LENDING GROUP, INC., dba Diamond Properties, and MAURICIO A. DUENAS, dba M. D. Investments and M. D. Lending Group (hereinafter referred to as "Respondents"), are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter Code).

3.

At all times herein mentioned, Respondents were licensed by the Department of Real Estate of the State of California as a real estate salesperson or broker or had license rights thereto.

4.

On or about March 21, 2006, Respondents arranged or caused the arrangement through the use of falsified documentation, a transfer of property located at 1001 Royal Oaks Drive, Monrovia, California, from Richard Ruiz (Grantor) to Maria Elena Rodriguez (Grantee). In order to finalize the transaction, Respondents arranged through the use of falsified documentation for the Grantee to obtain a first mortgage and a second mortgage from Freedom Home Mortgage (Lender).

5.

On or about May 3, 2006, Respondents arranged or caused the arrangement through the use of falsified documentation a transfer of property located at 1809 South 8th Street, Alhambra, California, from Philip and Kathryn Tardibuono (Grantor) to

1 Maria Elena Rodriguez (Grantee). In order to finalize the
2 transaction, Respondents arranged through the use of falsified
3 documentation for the Grantee to obtain a first and a second
4 mortgage from First Platinum (Lender).

5 6.

6 The above two transactions were sham transactions
7 undertaken by Respondents with the use of a dummy Grantee in that
8 the Grantee was to receive a monetary sum for the use of her name
9 and credit.

10 7.

11 In order to induce the Lenders to make the loans to the
12 Grantee, Respondents caused falsified documentation to be
13 submitted to the Lenders upon which the Lenders relied in making
14 the loans. Such documentation included, among other things, the
15 purchase agreements, loan applications, deeds of trust, tax
16 returns, pay stubs and W-2s.

17 8.

18 The Lenders relied upon the documentation they received
19 from Respondents and agreed to make the loans to the Grantee. If
20 the Lenders had known the true facts in this matter, the Lenders
21 would not have agreed to make the loans to the Grantee.

22 9.

23 The Lenders have been damaged financially in this
24 matter as Respondents have not made all required payments of
25 principal and interest due the Lenders. Respondents defaulted on
26 the loan payments due the Lenders and a foreclosure resulted from
27 the default.

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10.

The conduct of Respondents CARLOS ANTHONY MARADIAGA, NATALIE ESTHER MARQUEZ, M. D. LENDING GROUP, INC., and MAURICIO A. DUENAS, as alleged above, subjects their real estate license and license rights to suspension or revocation pursuant to Sections 10177(f), 10176(a) and/or 10177(j) of the Code.

SECOND CAUSE OF ACCUSATION

11.

The Complainant incorporates by reference Paragraphs 1 through 3 as they pertain to Respondent MAURICIO A. DUENAS.

12.

In or around March, 2001, Respondent DUENAS arranged or caused the arrangement through the use of falsified documentation, a transfer of property located at 6415 Kansas Avenue, Los Angeles, California, to Michael Gero (Grantee).

13.

The above matter was a sham transaction undertaken by Respondent without the knowledge or permission of the Grantee.

14.

The conduct of Respondent MAURICIO A. DUENAS, as alleged above, subjects his real estate license and license rights to suspension or revocation pursuant to Sections 10177(f), 10176(a) and/or 10177(j) of the Code.

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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 license rights of Respondents
5 CARLOS ANTHONY MARADIAGA, NATALIE ESTHER MARQUEZ, M. D. LENDING
6 GROUP, INC., and MAURICIO A. DUENAS under the Real Estate Law
7 (Part 1 of Division 4 of the Business and Professions Code) and
8 for such other and further relief as may be proper under other
9 applicable provisions of law.

10 Dated at Los Angeles, California
11 this 9 day of March, 2009.

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15 ROBIN L. TRUJILLO
16 Deputy Real Estate Commissioner
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24 cc: Carlos Anthony Maradiaga
25 Natalie Esther Marquez
26 M. D. Lending Group, Inc.
27 Phillip Ihde
Robin L. Trujillo
Sacto.