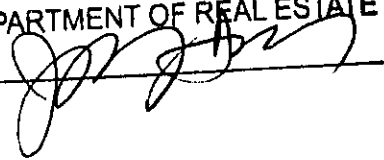


1 Department of Real Estate  
2 320 W. 4<sup>TH</sup> Street, Suite 350  
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982

**FILED**

OCT 26 2010

DEPARTMENT OF REAL ESTATE  
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of	)	No. H-36541 LA
	)	L-2010041515
12 ACP INVESTMENTS INC. doing	)	
13 Business as ERA Promerica Realtors;	)	<u>STIPULATION</u>
14 and ANDRES CORTEZ, individually and as	)	<u>AND</u>
15 designated officer of ACP Investments	)	<u>AGREEMENT</u>
16 Inc.,	)	
	)	
17 Respondents.	)	

18 It is hereby stipulated by and between Respondents  
19 ACP INVESTMENTS INC. and ANDRES CORTEZ, individually and as  
20 designated officer of ACP Investments Inc. (sometimes  
21 collectively referred to as "Respondents"), and the Complainant,  
22 acting by and through Elliott Mac Lennan, Counsel for the  
23 Department of Real Estate, as follows for the purpose of settling  
24 and disposing of the Accusation filed on March 24, 2010, in this  
25 matter:

26 ///

1           1. All issues which were to be contested and all  
2 evidence which was to be presented by Complainant and Respondents  
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. Respondents have received, read and understand the  
9 Statement to Respondent, the Discovery Provisions of the APA and  
10 the Accusation filed by the Department of Real Estate in this  
11 proceeding.

12           3. Respondents filed a Notice of Defense pursuant to  
13 Section 11506 of the Government Code for the purpose of  
14 requesting a hearing on the allegations in the Accusation.  
15 Respondents hereby freely and voluntarily withdraw said Notice of  
16 Defense. Respondents acknowledge that they understand that by  
17 withdrawing said Notice of Defense they thereby waive their right  
18 to require the Commissioner to prove the allegations in the  
19 Accusation at a contested hearing held in accordance with the  
20 provisions of the APA and that they will waive other rights  
21 afforded to them in connection with the hearing such as the right  
22 to present evidence in their defense the right to cross-examine  
23 witnesses.  
24

25 ///

26 ///

27

1                   4. This Stipulation is based on the factual  
2 allegations contained in the Accusation. In the interest of  
3 expedience and economy, Respondents choose not to contest these  
4 allegations, but to remain silent and understand that, as a  
5 result thereof, these factual allegations, without being admitted  
6 or denied, will serve as a prima facie basis for the disciplinary  
7 action stipulated to herein. The Real Estate Commissioner shall  
8 not be required to provide further evidence to prove said factual  
9 allegations.

10                   5. This Stipulation is made for the purpose of  
11 reaching an agreed disposition of this proceeding and is  
12 expressly limited to this proceeding and any other proceeding or  
13 case in which the Department of Real Estate ("Department"), or  
14 another licensing agency of this state, another state or if the  
15 federal government is involved, and otherwise shall not be  
16 admissible in any other criminal or civil proceeding.

17                   6. It is understood by the parties that the Real  
18 Estate Commissioner may adopt this Stipulation as his Decision in  
19 this matter thereby imposing the penalty and sanctions on  
20 Respondents' real estate licenses and license rights as set forth  
21 in the below "Order". In the event that the Commissioner in his  
22 discretion does not adopt the Stipulation, the Stipulation shall  
23 be void and of no effect and Respondents shall retain the right  
24 to a hearing and proceeding on the Accusation under the  
25 provisions of the APA and shall not be bound by any stipulation  
26  
27

1 or waiver made herein.

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

8 DETERMINATION OF ISSUES

9 By reason of the foregoing, it is stipulated and agreed  
10 that the following determination of issues shall be made:

11 I.

12 The conduct of ACP INVESTMENTS INC., as described in  
13 Paragraph 4, above, is in violation of Section 10142 and 10148 of  
14 the Business and Professions Code ("Code") and is a basis for  
15 discipline of Respondent ACP INVESTMENTS INC.'s license and  
16 license rights as a violation of the Real Estate Law pursuant to  
17 Code Sections 10177(d) and 10177(g).  
18

19 II.

20 The conduct of ANDRES CORTEZ, as described in Paragraph  
21 4, above, is a basis for discipline of Respondent's license and  
22 license rights as a violation of the Real Estate Law pursuant to  
23 Code Section 10177(g).

24 ///

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

8                   5. If Respondent pays the monetary penalty and if no  
9 further cause for disciplinary action against the real estate  
10 license of Respondent occurs within two (2) years from the  
11 effective date of the Decision, the stay hereby granted shall  
12 become permanent.

13                   B. The remaining thirty (30) days of the sixty (60)  
14 day suspension shall be stayed for two (2) years upon the  
15 following terms and conditions:

16                   1. Respondent shall obey all laws, rules and  
17 regulations governing the rights, duties and responsibilities of  
18 a real estate licensee in the State of California; and  
19

20                   2. That no final subsequent determination be made  
21 after hearing or upon stipulation, which cause for disciplinary  
22 action occurred within two (2) years from the effective date of  
23 this Decision. Should such a determination be made, the  
24 Commissioner may, in his discretion, vacate and set aside the  
25 stay order and reimpose all or a portion of the stayed  
26 suspension. Should no such determination be made, the stay  
27

1 imposed herein shall become permanent.

2 III.

3 Respondent ANDRES CORTEZ shall within six (6) months  
4 from the effective date of the Decision herein, take and pass the  
5 Professional Responsibility Examination administered by the  
6 Department including the payment of the appropriate examination  
7 fee. If Respondent fails to satisfy this condition, the  
8 Commissioner may order the suspension of Respondent's license  
9 until Respondent passes the examination.

10 IV.

11 All licenses and licensing rights of Respondent ANDRES  
12 CORTEZ are indefinitely suspended upon the effective date of this  
13 Decision and thereafter unless and until Respondent provides  
14 proof satisfactory to the Commissioner of payment to Lidia  
15 Chavez, or on her behalf for her property 1927 E. Lomita Ave.,  
16 Orange, California, of the \$20,000 disbursed to Respondent from  
17 RMB escrow.

18  
19  
20 DATED: 9-9-10

EL  
ELLIOTT MAC LENNAN, Counsel for  
the Department of Real Estate

21  
22 ///

23 ///

24 ///

25 ///

26 ///

27

1 \* \* \*

2 EXECUTION OF THE STIPULATION

3 We have read the Stipulation. Its terms are understood  
4 by us and are agreeable and acceptable to us. We understand that  
5 we are waiving rights given to us by the California  
6 Administrative Procedure Act (including but not limited to  
7 Sections 11506, 11508, 11509 and 11513 of the Government Code),  
8 and we willingly, intelligently and voluntarily waive those  
9 rights, including the right of requiring the Commissioner to  
10 prove the allegations in the Accusation at a hearing at which we  
11 would have the right to cross-examine witnesses against us and to  
12 present evidence in defense and mitigation of the charges.  
13

14 MAILING AND FACSIMILE

15 Respondents (1) shall mail the original signed  
16 signature page of the stipulation herein to Elliott Mac Lennan:  
17 Attention: Legal Section, Department of Real Estate, 320 W.  
18 Fourth St., Suite 350, Los Angeles, California 90013-1105.  
19 Respondents shall also (2) facsimile a copy of signed signature  
20 page, to the Department at the following telephone/fax number:  
21 (213) 576-6917, Attention: Elliott Mac Lennan.

22 ///

23 ///

24 ///

25 ///

26 ///

27



1 A facsimile constitutes acceptance and approval of the  
2 terms and conditions of this stipulation. Respondents agree,  
3 acknowledge and understand that by electronically sending to the  
4 Department a facsimile copy of Respondents' actual signature as  
5 it appears on the stipulation that receipt of the facsimile copy  
6 by the Department shall be as binding on Respondents as if the  
7 Department had received the original signed stipulation.

8  
9  
10 DATED: \_\_\_\_\_

\_\_\_\_\_  
ACP INVESTMENTS INC.,  
BY: ANDRES CORTEZ,  
Respondent

11  
12  
13  
14  
15 DATED: \_\_\_\_\_

\_\_\_\_\_  
ANDRES CORTEZ, individually and as  
designated officer of ACP  
Investments Inc., Respondent

16  
17  
18  
19 ///  
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\* \* \*

EXECUTION OF THE STIPULATION

1  
2 We have read the Stipulation. Its terms are  
3 understood by us and are agreeable and acceptable to us. We  
4 understand that we are waiving rights given to us by the  
5 California Administrative Procedure Act (including but not  
6 limited to Sections 11506, 11508, 11509 and 11513 of the  
7 Government Code), and we willingly, intelligently and  
8 voluntarily waive those rights, including the right of requiring  
9 the Commissioner to prove the allegations in the Accusation at a  
10 hearing at which we would have the right to cross-examine  
11 witnesses against us and to present evidence in defense and  
12 mitigation of the charges.  
13  
14

15 MAILING AND FACSIMILE

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17 signature page of the stipulation herein to Elliott Mac Lennan:  
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20

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24 ///

25 ///

26 A facsimile constitutes acceptance and approval of the  
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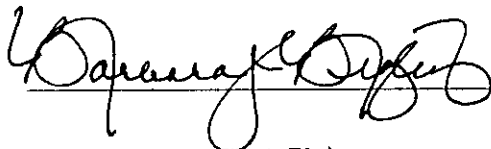
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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondents ACP INVESTMENTS INC. and  
ANDRES CORTEZ, individually and as designated officer of ACP  
Investments Inc. and shall become effective at 12 o'clock noon on  
NOV 15 2010, 2010.

IT IS SO ORDERED 10/14, 2010.

JEFF DAVI  
Real Estate Commissioner




BY: Barbara J. Bigby  
Chief Deputy Commissioner

1 JULIE L. TO, SBN 219482  
Department of Real Estate  
2 320 West 4th Street, Ste. 350  
Los Angeles, California 90013-1105  
3  
4 Telephone: (213) 576-6916 (direct)  
(213) 576-6917 (fax)

**FILED**

MAR 24 2010

DEPARTMENT OF REAL ESTATE  
BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of ) No. H-36541 LA  
12 ACP INVESTMENTS INC., doing )  
business as ERA Promerica Realtors; ) A C C U S A T I O N  
13 and ANDRES CORTEZ, individually and a )  
designated officer of ACP Investments )  
14 Inc. )  
15 Respondents. )

16  
17 The Complainant, Maria Suarez, a Deputy Real Estate  
18 Commissioner of the State of California, for cause of Accusation  
19 against ACP INVESTMENTS INC., dba ERA Promerica Realtors and  
20 ANDRES CORTEZ, individually and as designated officer of ACP  
21 Investments Inc., alleges as follows:  
22

23 1.

24 The Complainant, Maria Suarez, acting in her official  
25 capacity as a Deputy Real Estate Commissioner of the State of  
26 California, makes this Accusation against ACP INVESTMENTS INC.  
27 and ANDRES ORTIZ.

2.

1 All references to the "Code" are to the California  
2 Business and Professions Code.  
3

4 License History

5 3.

6 A. At all times mentioned, ACP INVESTMENTS INC.  
7 ("ACP") was licensed or had license rights issued by the  
8 Department of Real Estate ("Department") as a real estate broker.  
9 On January 2, 1998, ACP was originally licensed as a real estate  
10 broker.

11 B. At all times mentioned, ANDRES CORTEZ ("CORTEZ")  
12 was licensed or had license rights issued by the Department of  
13 Real Estate ("Department") as a real estate broker. On July 31,  
14 2006, CORTEZ was originally licensed as a real estate broker. On  
15 October 5, 2006, CORTEZ was licensed as the designated officer of  
16 ACP and Synergy One Investment Corporation ("Synergy"). On  
17 October 27, 2008, CORTEZ was cancelled as designated officer of  
18 ACP. On February 23, 2007, CORTEZ was cancelled as designated  
19 officer of Synergy.  
20

21 C. At all times material herein, ACP was licensed by  
22 the Department as a corporate real estate broker by and through  
23 CORTEZ, as the designated officer and broker responsible,  
24 pursuant to Code Sections 10159.2 and 10211 of the Business and  
25 Professions Code for supervising the activities requiring a real  
26  
27

1 estate license conducted on behalf of ACP by ACP's officers,  
2 agents and employees, including CORTEZ.

3 Brokerage

4 4.

5 At all times mentioned, in the City of Tustin, County  
6 of Los Orange, ACP and ORTIZ acted as real estate brokers and  
7 conducted licensed activities including but not necessarily  
8 limited to:

9 A. Code Section 10131(a). ACP and ORTIZ operated a  
10 residential resale brokerage and engaged in the business of,  
11 acted in the capacity of, advertised or assumed to act as real  
12 estate brokers, including the solicitation for listings of and  
13 the negotiation of the sale of real property as the agent of  
14 others; and,  
15

16 B. Code Section 10131(d). ACP and ORTIZ operated a  
17 mortgage and loan brokerage and engaged in activities with the  
18 public wherein lenders and borrowers were solicited for loans  
19 secured directly or collaterally by liens on real property,  
20 wherein such loans were arranged, negotiated, processed and  
21 consummated on behalf of others for compensation or in  
22 expectation of compensation and for fees often collected in  
23 advance.  
24

25 Subpoena

26 5.

27 On October 20, 2009, the Department received a

1 complâint from Lidia Chavez ("Chavez") against CORTEZ for  
2 misappropriation of \$20,000.00 from a real estate transaction of  
3 Chavez's property at 1927 E. Lomita Ave., Orange, CA 92867  
4 ("Lomita property"). At the time of this transaction, CORTEZ was  
5 the broker at ERA Promerica Realtors ("ERA"), a d.b.a. of ACP, of  
6 which CORTEZ was a designated officer.

7 Chavez complained that CORTEZ did not provide any  
8 documents from the transaction, including documents signed by  
9 Chavez, other than the HUD Settlement Statement, dated March 27,  
10 2007, which shows that \$20,000.00 was held by RMB Escrow Company  
11 ("RMB") and released on April 13, 2007 to ERA. CORTEZ produced  
12 an Amendment to the Escrow Instructions authorizing the release  
13 of the \$20,000.00 to ERA. The Amendment purports to bear the  
14 signature of Chavez. Chavez denied every signing the Amendment  
15 and asserted the signature on the Amendment is not hers.

16 RMB was served a *subpoena duces tecum* for any and all  
17 documents it had on the sale transaction of the Lomita property.

18 CORTEZ was personally served a subpoena duces tecum for  
19 the complete sale transactional records of the Lomita property.

20 CORTEZ did not produce any records by the March 1, 2010  
21 production date requested by the subpoena. In response to the  
22 subpoena, CORTEZ stated that the file had been misplaced or lost.  
23 ACP and CORTEZ failed to maintain records for the Lomita property  
24 sale transaction.  
25

26 ///  
27



Violations Of The Real Estate Law

6.

In the course of activities described in Paragraph 5 above, Respondents ACP and CORTEZ acted in violation of the Code and the Regulations in that they:

A. In the course of the sale transaction of the Lomita property, failed to provide any documents other than the HUD Settlement Statement to Chavez. ACP and CORTEZ failed to provide a copy of the agreement authorizing or employing him to perform any acts for which a license is required, and documents signed by Chavez, in violation of Code Section 10142.

B. Respondents failed to retain all records of activity in the transaction of the Lomita property, in violation of Code Section 10148.

C. In the course of the sale transaction of the Lomita property, an Amendment to the Escrow Instructions was generated, purported to bear a signature by Chavez. Chavez stated that she did not sign the Amendment and that it is not in fact her signature. The false signature for Chavez on the Amendment constitutes an act of fraud or dishonest, in violation of Code Section 10176(i).

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Discipline

7.

The conduct of Respondents ACP and CORTEZ, described in Paragraph 6, above, violated the Real Estate Law as set forth below:

<u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
5	Code Section 10142
5	Code Section 10148
5	Code Section 10176(i)

The foregoing violation constitutes cause for discipline of the real estate license and license rights of ACP and CORTEZ under the provisions of Code Sections 10142, 10148, 10176(i) and 10177(d), 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 the license and license rights of Respondents ACP  
5 INVESTMENTS INC., dba ERA Promerica Realtors and ANDRES CORTEZ,  
6 individually and as designated officer of ACP Investments Inc.,  
7 under the Real Estate Law (Part 1 of Division 4 of the Business  
8 and Professions Code) and for such other and further relief as  
9 may be proper under other applicable provisions of law.

10 Dated at Los Angeles, California

11 this *23<sup>rd</sup>* day of *March* 2010.

12   
13 Deputy Real Estate Commissioner

14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25 cc: ACP INVESTMENTS, INC.  
26 ANDRES CORTEZ  
27 Maria Suarez  
Sacto.