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Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105
Telephone: (213) 576-6982

FILED

JAN - 4 2012

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of)
)
ORACLE 4 INVESTMENTS INC. doing)
business as America 1st Realty,)
and Millennium Mortgage; and)
JUDITH GALLARDO, individually)
and as designated officer of)
Oracle 4 Investments Inc.,)
)
Respondents.)

No. H-36615 LA
L-2011020979

STIPULATION
AND
AGREEMENT

It is hereby stipulated by and between Respondents ORACLE 4 INVESTMENTS INC. and JUDITH GALLARDO, individually and as designated officer of Oracle 4 Investments Inc. (sometimes collectively referred to as "Respondents"), represented by Frank M. Buda, Esq. and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed on April 28, 2010, in this matter:

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

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

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

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

23 5. This Stipulation is made for the purpose of reaching an agreed disposition of
24 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
25 which the Department of Real Estate ("Department"), the state or federal government, or any
26 agency of this state, another state or federal government is involved.

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

8 7. The Order or any subsequent Order of the Real Estate Commissioner made
9 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
10 administrative or civil proceedings by the Department of Real Estate with respect to any matters
11 which were not specifically alleged to be causes for Accusation in this proceeding but do
12 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations
13 against Respondent herein.

14 8. Respondents understand that by agreeing to this Stipulation, Respondents agree
15 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit. The
16 amount of said cost for the original audit (LA080291/LA080318) is \$7,258.05.

17 9. Respondents have received, read, and understand the "Notice Concerning
18 Costs of Subsequent Audit". Respondents further understand that by agreeing to this Stipulation,
19 the findings set forth below in the Determination of Issues become final, and the Commissioner
20 may charge Respondents for the cost of any subsequent audit conducted pursuant to Business and
21 Professions Code Section 10148 to determine if the violations have been corrected. The
22 maximum cost of the follow-up audit will not exceed \$7,258.05.

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1 DETERMINATION OF ISSUES

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

4 I.

5 The conduct, acts or omissions of ORACLE 4 INVESTMENTS INC., as
6 described in Paragraph 4, herein above, are in violation of Section 10145 and 10162 of the
7 Business and Professions Code ("Code") and Sections 2715, 2742(c), 2831 and 2831.1 of Title
8 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for discipline
9 of Respondent's license and license rights as violation of the Real Estate Law pursuant to Code
10 Section 10177(d).

11 II.

12 The conduct, acts or omissions of JUDITH GALLARDO, as described in
13 Paragraph 4, herein above, are in violation of Code Section 10159.2 and is a basis for discipline
14 of Respondent's license and license rights as violation of the Real Estate Law pursuant to Code
15 Section 10177(h).

16 ORDER

17 WHEREFORE, THE FOLLOWING ORDER is hereby made:

18
19 All licenses and licensing rights of Respondents ORACLE 4 INVESTMENTS
20 INC. and JUDITH GALLARDO, under the Real Estate Law are suspended for a period of sixty
21 (60) days from the effective date of this Decision:

22 A. Provided, however, that if Respondents request, the initial thirty (30) days of
23 said suspension (or a portion thereof) shall be stayed upon condition that:

24 1. Each Respondent pays a monetary penalty pursuant to Section 10175.2 of the
25 Business and Professions Code at the rate of \$33.33 per day for each day of the suspension for a
26 total monetary penalty of \$2,000.

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

4 3. No further cause for disciplinary action against the real estate license of a
5 Respondent occurs within two (2) years from the effective date of the Decision in this matter.

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

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

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

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

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

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1 II.

2 Pursuant to Section 10148 of the Business and Professions Code, Respondents

3 ORACLE 4 INVESTMENTS INC. and JUDITH GALLARDO, shall pay the Commissioner's
4 reasonable cost for (a) the audit which led to this disciplinary action and (b) a subsequent audit to
5 determine if Respondents are now in compliance with the Real Estate Law. The cost of the audit
6 which led to this disciplinary action is \$7,258.05. In calculating the amount of the
7 Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary
8 for all persons performing audits of real estate brokers, and shall include an allocation for travel
9 time to and from the auditor's place of work. Said amount for the prior and subsequent audits
10 shall not exceed \$14,516.10. Respondents shall pay such cost within 60 days of receiving an
11 invoice from the Commissioner detailing the activities performed during the audit and the
12 amount of time spent performing those activities.

13 The Commissioner may suspend the license of Respondent pending a hearing held
14 in accordance with Section 11500, et seq., of the Government Code, if payment is not timely
15 made as provided for herein, or as provided for in a subsequent agreement between the
16 Respondents and the Commissioner. The suspension shall remain in effect until payment is
17 made in full or until Respondent enters into an agreement satisfactory to the Commissioner to
18 provide for payment, or until a decision providing otherwise is adopted following a hearing held
19 pursuant to this condition.

20 III.

21 All licenses and licensing rights of Respondent JUDITH GALLARDO, are
22 indefinitely suspended unless or until Respondent provides proof satisfactory to the
23 Commissioner, of having taken and successfully completed the continuing education course on
24 trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section
25 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes
26 evidence that respondent has successfully completed the trust fund account and handling
27 continuing education course within 120 days prior to the effective date of the Decision in this

1 matter.

2 IV.

3 Respondent JUDITH GALLARDO, shall within six (6) months from the effective
4 date of the Decision herein, take and pass the Professional Responsibility Examination
5 administered by the Department including the payment of the appropriate examination fee. If
6 Respondent fails to satisfy this condition, the Commissioner may order suspension of
7 Respondent's license until Respondent passes the examination. The Commissioner shall afford
8 Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present
9 such evidence.
10

11 V.

12 Respondent JUDITH GALLARDO, shall, within nine (9) months from the
13 effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner
14 that Respondent has, since the most recent issuance of an original or renewal real estate license,
15 taken and successfully completed the continuing education requirements of Article 2.5 of
16 Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to
17 satisfy this condition, the Commissioner may order the suspension of Respondent's license until
18 Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity
19 for a hearing pursuant to the Administrative Procedure Act to present such evidence.
20

21 VI.

22
23 All licenses of Oracle 4 Investments Inc. are indefinitely suspended until such
24 time that Oracle 4 Investments Inc. provides proof satisfactory to the Real Estate Commissioner,
25 of being in good standing with the California Secretary of State.
26
27

VII.

As a further condition for the Commissioner to enter into this Stipulation,

Respondents shall provide evidence satisfactory to the Real Estate Commissioner that Respondents have either repaid the excess collected credit report fees or satisfied the followers borrowers: F. Gutierrez (\$34.00), M. Becerra (\$20.00) and M. Rosales (\$30.75), totaling \$84.75. If Respondents fail to provide such evidence, the Commissioner may, without a hearing, order the immediate execution of all or any part of the stayed suspension in which event Respondent shall not be entitled to any repayment or credit, prorated or otherwise, for money paid to the Department under the terms of this Decision.

DATED: 12-7-11

Elliott Mac Lennan
ELLIOTT MAC LENNAN, Counsel for
Department of Real Estate

* * *

EXECUTION OF THE STIPULATION

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

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MAILING AND FACSIMILE

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

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

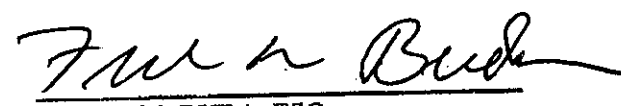
DATED: Nov. 18, 2011


ORACLE 4 INVESTMENTS INC., Respondent
By: JUDITH GALLARDO, as designated officer

DATED: Nov. 18, 2011


JUDITH GALLARDO, Respondent,
Individually and as designated officer

DATED: 11-22-11


FRANK M. BUDA, ESQ.
Attorney for Respondents
Approved as to form

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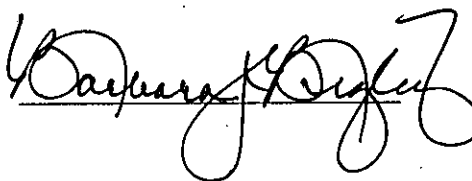
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondents ORACLE 4 INVESTMENTS INC. and JUDITH GALLARDO, and shall become effective at 12 o'clock noon on February 3, 2012.

IT IS SO ORDERED 12/16, 2011.

BARBARA J. BIGBY
Acting Real Estate Commissioner



1 ELLIOTT MAC LENNAN SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)

FILED

APR 28 2010

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of

No. H-36615 LA

12 ORACLE 4 INVESTMENTS INC. doing
13 business as America 1st Realty,
14 and Millennium Mortgage; and
15 JUDITH GALLARDO, individually
and as designated officer of
Oracle 4 Investments Inc.,

A C C U S A T I O N

16 Respondents.

17
18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner of the State of California, for cause of Accusation
20 against ORACLE 4 INVESTMENTS INC. dba America 1st Realty and
21 Millennium Mortgage; and JUDITH GALLARDO aka Judith Rodriguez,
22 individually and as designated officer of Oracle 4 Investments
23 Inc., alleges as follows:

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1.

1 The Complainant, Robin Trujillo, acting in her official
2 capacity as a Deputy Real Estate Commissioner of the State of
3 California, makes this Accusation against ORACLE 4 INVESTMENTS
4 INC. (O4II) and JUDITH GALLARDO (GALLARDO).
5

2.

6 All references to the "Code" are to the California
7 Business and Professions Code and all references to "Regulations"
8 are to Title 10, Chapter 6, California Code of Regulations.
9

3.

10 A. At all times mentioned, O4II and GALLARDO were
11 licensed or had license rights issued by the Department of Real
12 Estate (Department) as real estate brokers.
13

14 B. At all times material herein, O4II was licensed by
15 the Department as a corporate real estate broker by and through
16 GALLARDO, pursuant to Code Sections 10211 and 10159.2 for
17 supervising the activities requiring a real estate license
18 conducted on behalf O4II.

19 BROKERAGE

20 ORACLE 4 INVESTMENTS INC.

21 4.

22 At all times mentioned, in the City of Downey, County
23 of Los Angeles, O4II and GALLARDO acted as real estate brokers
24 and conducted licensed activities within the meaning of:
25

26 A. Code Section 10131(a). O4II operated a residential
27 resale brokerage America 1st Realty.

1 B. Code Section 10131(d). 04II operated a mortgage
2 and loan brokerage dba Millennium Mortgage engaging in activities
3 with the public wherein lenders and borrowers were solicited for
4 loans secured directly or collaterally by liens on real property,
5 wherein such loans were arranged, negotiated, processed and
6 consummated on behalf of others for compensation or in
7 expectation of compensation and for fees often collected in
8 advance as well as at the conclusion of transactions.

9
10 AUDIT EXAMINATION

11 5.

12 On August 18, 2009, the Department completed an audit
13 examination of the books and records of 04II pertaining to the
14 residential resale and mortgage loan activities described in
15 Paragraph 4 that require a real estate license. The audit
16 examination covered a period of time beginning on May 1, 2006 to
17 April 30, 2009. The audit examination revealed violations of the
18 Code and the Regulations as set forth in the following
19 paragraphs, and more fully discussed in Audit Report LA 080291
20 and LA 080318 and the exhibits and work papers attached to said
21 audit report.

22 TRUST ACCOUNT

23 During the audit period no trust account was kept.
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1 VIOLATIONS OF THE REAL ESTATE LAW

2 7.

3 In the course of activities described in Paragraphs 4
4 and 6, above, and during the examination period described in
5 Paragraph 5, Respondents 04II and GALLARDO, acted in violation of
6 the Code and the Regulations in that Respondents:

7 Lisa Cross Complaint

8 (a) (1) Seller Lisa Cross sought to list her real
9 property located at 7800 Topanga Canyon Blvd., Apt. 303, in
10 Canoga Park, California, with America 1st Realty (A1R), the
11 residential resale brokerage and fictitious business name of
12 O4II.
13

14 (a) (2) GALLARDO, O4II's designated officer, prepared
15 the documents and gave them to her assistant and marketing
16 associate Arturo Lopez (Lopez) to handle Cross' paperwork.

17 (a) (3) O4II and GALLARDO had an agreement with Lopez as
18 an independent marketer and assistant for GALLARDO for real
19 estate transactions while Lopez studied for his real estate
20 examination with the Department to obtain a real estate license.

21 (a) (4) Weeks went where GALLARDO saw Lopez less
22 frequently.

23 (a) (5) GALLARDO was unable to contact Cross and obtain
24 her authorization and sign the listing agreement for her property
25 described as 7800 Topanga Canyon Blvd., Apt. 303, in Canoga Park.
26

27 (a) (6) GALLARDO learned that Ms. Cross was told by

Lopez not to call AIR because it was not necessary.

(a)(7) GALLARDO learned that Ms. Cross paid Lopez \$350 for as an appraisal fee and paid Lopez \$7,000 to be placed into escrow by Lopez for the benefit of Ms. Cross bring the arrearages in mortgage payments current.

(a)(8) GALLARDO met with Ms. Cross on February 26, 2007 and Ms. Cross signed the cancellation of the listing with AIR on said date.

(a)(9) GALLARDO's failure to monitor and supervise the conduct of her unlicensed assistant, Arturo Lopez, constitutes the unauthorized hiring and/or compensating of Arturo Lopez and constitutes negligence, in violation of Code Section 10137 and 10177(g).

(b) Failed to maintain an adequate and complete control record in the form of a columnar record in chronological order of all "Trust Funds Received, Not Placed Broker's Trust Account", in violation of Code Section 10145 and Regulation 2831. Credit report fees received from escrow were not logged or recorded.

(c) Failed to maintain an adequate and complete separate record for each beneficiary or transaction, thereby failing to account for all trust funds received, deposited and disbursed, in violation of Code Section 10145 and Regulation 2831.1. Credit report fees received from escrow were not logged or recorded.

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1 (d) Failed to disclose that O4II charged credit report
2 fees in excess of the amount billed to borrowers by the credit
3 reporting company including, but not limited to, the following
4 borrowers Florencio Gutierrez, Miguel Becerra and Miguel Rosales,
5 constituting the receipt of undisclosed compensation, in
6 violation of Code Section 10176(g).

8 (e) O4II misrepresented to seller that O4II held an
9 earnest money deposit from Miguel Becerra, when O4II in fact did
10 not, in violation of Code Sections 10176(a) and/or 10177(g).

11 (f) Mixed and commingled trust funds and personal
12 funds by depositing appraisal and credit report fees received
13 from escrow into O4II's general business operating account, These
14 trust funds were subsequently disbursed by O4II whom issued
15 checks from said account to the credit report companies after the
16 escrow checks were deposited into O4II's general account, in
17 violation of Code Sections 10145 and 10176(e).

18 (g) (1) Failed to retain a true and correct copy of a
19 Department of Real Estate approved California Mortgage Loan
20 Disclosure Statement signed by the broker for borrowers Frank
21 Bravo, J. & S. Aguilar, and Peter Castillo, in violation of Code
22 Section 10240(a) and Regulation 2840; and

23 (g) (2) Failed to provide or retain a true and correct
24 copy of a Good Faith Estimate that satisfies the requirements of
25 the Real Estate Settlement Procedures Act of 1974 (12 U.S.C.A
26 2601 et seq.), that (1) sets forth the broker's real estate
27

1 license number; (2) a clear and conspicuous statement on the face
2 of the document stating that the Good Faith Estimate does not
3 constitute a loan commitment; and, further sets forth all
4 applicable disclosures including but not limited to (3) yield
5 spread premiums rebates by the lender for borrowers Gutierrez,
6 Mangone, Castaneda, Martinez, Johnson, Casa and Flores, in
7 violation of Code Section 10240(c).

8 (h) Failed to display the O4II's license number on
9 O4II's Mortgage Loan Disclosure Statements to borrowers, in
10 violation of Code Section 10236.4.

11 (i) During years 2007 and 2008 O4II's corporate status
12 was suspended by the California Franchise Tax Board for non
13 payment of income tax in 2006, yet O4II continued to conduct
14 operations to date, in violation of Code Section 10177(f) and
15 Regulation 2742(c).

16 (j) Failed to notify the Department of its main place
17 of business, in violation of Code Section 1016 and Regulation
18 2715.

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DISCIPLINARY STATUTES AND REGULATIONS

8.

The conduct of Respondents O4II and GALLARDO described in Paragraph 7, above, violated the Code and the Regulations as set forth below:

PARAGRAPH

PROVISIONS VIOLATED

7(a)

Code Section 10137 and 10177(g)

7(b)

Code Section 10145 and Regulation
2831

7(c)

Code Section 10145 and Regulation
2831.1 .

7(d)

Code Section 10176(g)

7(e)

Code Sections 10176(a) and 10177(g)

7(f)

Code Sections 10145 and 10176(e)

1 7(g)

Code Sections 10240(a) and 10240(c)
and Regulation 2840

2
3
4 7(h)

Code Section 10236.4

5
6 7(i)

Code Section 10177(f) and
Regulation 2742(c)

7
8
9 7(j)

Code Section 10162 and Regulation
2715

10
11
12 The foregoing violations constitute cause for the suspension or
13 revocation of the real estate license and license rights of O4II
14 and GALLARDO, under the provisions of Code Sections 10176(a),
15 10176(e), 10176(g), 10177(d) and/or 10177(g).

16 9.

17 The overall conduct of Respondents O4II and GALLARDO
18 constitutes negligence. This conduct and violation are cause for
19 discipline of the real estate license and license rights of
20 Respondents O4II and GALLARDO pursuant to Code Section 10177(g).

21 10.

22 The overall conduct of Respondents O4II and GALLARDO
23 constitutes a breach of fiduciary duty to its real estate
24 clientele, including but not limited to Lisa Cross. This conduct
25 and violation are cause for discipline of the real estate license
26 and license rights of Respondents O4II and GALLARDO pursuant to
27

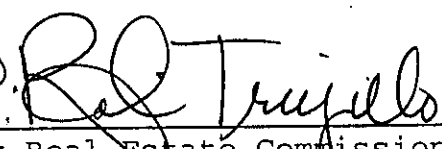
Code Section 10177(g).

11.

The overall conduct of Respondent GALLARDO constitutes a failure on Respondent's part, as officer designated by a corporate broker licensee, to exercise the reasonable supervision and control over the licensed activities of O4II as required by Code Section 10159.2, and to keep O4II in compliance with the Real Estate Law, and is cause for the suspension or revocation of the real estate license and license rights of GALLARDO pursuant to the provisions of Code Section 10177(h).

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of Respondents ORACLE 4 INVESTMENTS INC. and JUDITH GALLARDO, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

Dated at Los Angeles, California

this 21 day of April 2010. 
Deputy Real Estate Commissioner

cc: Oracle 4 Investments Inc.
c/o Judith Gallardo D.O.
Robin Trujillo
Sacto
Audits - Isabel Beltran