

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

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

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

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

3 5. This Stipulation is made for the purpose of
4 reaching an agreed disposition of this proceeding and is
5 expressly limited to this proceeding and any other proceeding or
6 case in which the Department of Real Estate ("Department"), the
7 state or federal government, or any agency of this state, another
8 state or federal government is a party.

9 6. It is understood by the parties that the Real
10 Estate Commissioner may adopt this Stipulation as his Decision in
11 this matter thereby imposing the penalty and sanctions on
12 Respondent's real estate license and license rights as set forth
13 in the "Order" herein below. In the event that the Commissioner
14 in his discretion does not adopt the Stipulation, it shall be
15 void and of no effect and Respondent shall retain the right to a
16 hearing and proceeding on the Accusation under the provisions of
17 the APA and shall not be bound by any stipulation or waiver made
18 herein.
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20 7. The Order or any subsequent Order of the Real
21 Estate Commissioner made pursuant to this Stipulation shall not
22 constitute an estoppel, merger or bar to any further
23 administrative or civil proceedings by the Department of Real
24 Estate with respect to any matters which were not specifically
25 alleged to be causes for Accusation in this proceeding but do
26 constitute a bar, estoppel and merger as to any allegations
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1 actually contained in the Accusation against Respondent herein.

2 DETERMINATION OF ISSUES

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

5 The conduct of NAZARIO MORENO as described in Paragraph
6 4 above, is a basis for discipline of Respondent's license and
7 license rights as violations of the Real Estate law pursuant to
8 Business and Professions Code ("Code") Sections 10085, 10145,
9 10147.5, 10161.8, 10176(a), 10176(f), 10177(d) and 10177(g) and
10 Title 10, Chapter 6, California Code of Regulations, Sections
11 2831, 2832 and 2905.

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 I.

15 All licenses and licensing rights of Respondent NAZARIO
16 MORENO under the Real Estate Law are suspended for a period of
17 ninety (90) days from the effective date of this Decision;
18 provided, however, that sixty (60) days of said suspension, shall
19 be stayed for two (2) years upon the following terms and
20 conditions:

21 A.

22 1. Respondent shall obey all laws, rules and
23 regulations governing the rights, duties and responsibilities of
24 a real estate licensee in the State of California; and

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

8 B.

9 If Respondent petitions, an additional 30 days shall be
10 stayed upon condition that:

11 1. Respondent pays a monetary penalty pursuant to
12 Section 10175.2 of the Code at the rate of \$50 for each day of
13 the suspension for a total monetary penalty of \$1,500.

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

19 3. No further cause for disciplinary action against
20 the real estate license of Respondent occurs within one year from
21 the effective date of the Decision in this matter.

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

4 5. If Respondent pays the monetary penalty and if no
5 further cause for disciplinary action against the real estate
6 license of Respondent occurs within two years from the effective
7 date of the Decision, the stay hereby granted shall become
8 permanent.

9 II

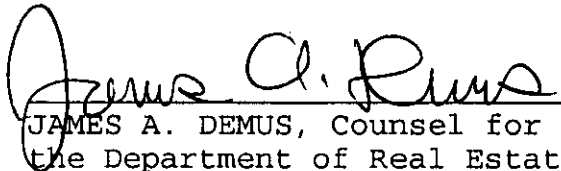
10 Respondent NAZARIO MORENO shall within six (6) months
11 from the effective date of the Decision herein, take and pass the
12 Professional Responsibility Examination administered by the
13 Department including the payment of the appropriate examination
14 fee. If Respondent NAZARIO MORENO fails to satisfy this
15 condition, the Commissioner may order suspension of Respondent
16 NAZARIO MORENO's license until Respondent passes the examination.

17 III

18 Respondent NAZARIO MORENO shall within six (6) months
19 from the effective date of the Decision herein, submit proof
20 satisfactory to the Commissioner of having taken and successfully
21 completed the continuing education course on trust fund
22 accounting and handling specified in subdivision (a) of Section
23 10170.5 of the Business and Professions Code. If Respondent
24 NAZARIO MORENO fails to satisfy this condition, the Commissioner
25 may order suspension of Respondent NAZARIO MORENO's license until
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1 Respondent submits proof satisfactory to the Commissioner of
2 having taken and successfully completed the course.

3
4 DATED: 6/13/11

5 
6 JAMES A. DEMUS, Counsel for
7 the Department of Real Estate

8 * * *

9 EXECUTION OF THE STIPULATION

10 I have read the Stipulation and Agreement and its
11 terms are understood by me and are agreeable and acceptable to
12 me. I understand that I am waiving rights given to me by the
13 California Administrative Procedure Act (including but not
14 limited to Sections 11506, 11508, 11509 and 11513 of the
15 Government Code), and I willingly, intelligently and voluntarily
16 waive those rights, including the right of requiring the
17 Commissioner to prove the allegations in the Accusation at a
18 hearing at which I would have the right to cross-examine
19 witnesses against me and to present evidence in defense and
20 mitigation of the charges.

21 Respondent can signify acceptance and approval of the
22 terms and conditions of this Stipulation and Agreement by faxing
23 a copy of the signature page, as actually signed by Respondent,
24 to the Department at fax number (213) 576-6917. Respondent
25 agrees, acknowledges and understands that by electronically
26 sending to the Department a fax copy of his actual signature as
27 it appears on the Stipulation and Agreement, that receipt of the

1 faxed copy by the Department shall be as binding on Respondent
2 as if the Department had received the original signed
3 Stipulation and Agreement.

4
5 DATED: 6/10/11


6 NAZARIO MORENO Respondent

7 * * *

8 The foregoing stipulation and Agreement is hereby
9 adopted as my Decision as to Respondent NAZARIO MORENO and shall
10 become effective at 12 o'clock noon on AUG 29 2011,
11 2011.

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13 IT IS SO ORDERED 6/28/11, 2011.

14 BARBARA J. BIGBY
15 Acting Real Estate Commissioner

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SACTO
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SEP 30 2010

1 JAMES DEMUS, Counsel (SBN 225005)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

DEPARTMENT OF REAL ESTATE
BY: James D. Demus

5 Telephone: (213) 576-6982
6 (Direct) (213) 576-6910

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Accusation of) No.H-36837-LA
12)
13 NAZARIO MORENO, d.b.a. Moreno)
14 Investments, Castle Properties and)
15 formerly d.b.a. Power Home Loans) A C C U S A T I O N
16 and Realty,)
17 Respondent.)

18 The Complainant, Robin Trujillo, a Deputy Real Estate
19 Commissioner, for cause of Accusation against NAZARIO MORENO,
20 d.b.a. Moreno Investments, Castle Properties and formerly d.b.a.
21 Power Home Loans and Realty, is informed and alleges as follows:

22 1.

23 The Complainant, Robin Trujillo, a Deputy Real Estate
24 Commissioner of the State of California, makes this Accusation in
25 her official capacity.

26 2.

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

1 LICENSE HISTORY

2 3.

3 NAZARIO MORENO ("Respondent") is presently licensed or
4 has license rights issued by the Department of Real Estate
5 ("Department") as a real estate broker. Respondent was first
6 licensed by the Department as a broker on February 23, 2006.

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8 ADVANCE FEE VIOLATION

9 POWER HOME LOANS & REALTY

10 4.

11 On or about May 15, 2008, Respondent, d.b.a. Power Home
12 Loans and Realty, entered into a loan negotiation and
13 modification agreement with Salvador A. Sola ("Sola"). As part
14 of this agreement, Respondent requested \$1,999 in advance fees.
15 In reliance on this request, Sola submitted \$1,000 checks to
16 Power Home Loans & Realty on both May 25, 2008 and June 7, 2008.

17 5.

18 The fees collected by Respondent, as described in
19 Paragraph 4 above, constitute advance fee agreements within the
20 meaning of Code Section 10026. Respondent failed to submit an
21 advance fee agreement to the Commissioner within ten calendar
22 days of its use, in violation of Code Section 10085 and Section
23 2970 of the Regulations.

24 6.

25 The conduct, acts and/or omissions of Respondent, as
26 set forth above, in violation of Code Sections 10085 and
27 Regulation 2970, are cause for the suspension or revocation of

1 the licenses and license rights of Respondent pursuant to Code
2 Sections 10085, 10177(d) and/or 10177(g).

3 BROKERAGE

4 CASTLE PROPERTIES

5 7.

6 At all times mentioned, in the City of Baldwin Park,
7 County of Los Angeles, Respondent acted as a real estate broker
8 conducting licensed activities within the meaning of Code
9 Sections 10131(a) and 10131(d) by operating a mortgage and loan
10 brokerage d.b.a. Castle Properties.

11 AUDIT

12 8.

13 On June 1, 2009, the Department completed an audit
14 examination of the books and records of Respondent pertaining to
15 the mortgage and loan activities described in Paragraphs 4
16 through 7 that require a real estate license. The audit
17 examination covered a period of time beginning from April 1, 2006
18 to March 31, 2009. The audit examination revealed violations of
19 the Code and the Regulations as set forth in the following
20 paragraphs, and more fully discussed in Audit Report LA 080241
21 and the exhibits and workpapers attached to said audit report.

22 TRUST ACCOUNT

23 9.

24 During the audit period Respondent did not maintain a
25 trust account.

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1 VIOLATIONS OF THE REAL ESTATE LAW

2 10.

3 In the course of activities described in Paragraph 7
4 above and during the examination period described in Paragraph 8,
5 Respondent acted in violation of the Code and the Regulations in
6 that Respondent:

7 (a) Held earnest money deposits more than three
8 business days after offers were accepted, in violation of Code
9 Section 10145 and Regulation 2832.

10 (b) Did not maintain a complete and accurate columnar
11 record for the trust funds received that were not placed in a
12 brokers' trust account, in violation of Code Section 10145 and
13 Regulation 2831.

14 (c) Made substantial misrepresentations, by presenting
15 offers to sellers which incorrectly stated that Respondent held
16 earnest money deposits, in violation of Code Section 10176(a).

17 (d) In at least one listing agreement, failed to
18 satisfy the notice requirement regarding the amount or rate of
19 real estate commissions, as set for Code Section 10147.5.

20 (e) Did not disclose a definite specified date of
21 final and complete termination in at least one listing agreement,
22 in violation of Code Section 10176(f).

23 (f) Did not deliver a pest control inspection report,
24 certification and notice of work completed when representing
25 sellers, in violation of Regulation 2905.
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1 (g) Failed to promptly notify the Department regarding
2 the termination of employment for two salespersons, in violation
3 of Code Section 10161.8.

4 11.

5 The conduct of Respondent, described in Paragraph 10,
6 above, violated the Code and the Regulations as set forth below:

7 <u>PARAGRAPH</u>	<u>PROVISIONS VIOLATED</u>
8 10(a)	Code Section 10145 and 9 Regulation 2832
10 10(b)	Code Section 10145 and Regulation 11 2831
12 10(c)	Code Section 10176(a)
13 10(d)	Code Section 10147.5
14 10(e)	Code Section 10176(f)
15 10(f)	Regulation 2905
16 10(g)	Code Section 10161.8

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23 The foregoing violations constitutes cause for the
24 suspension or revocation of the real estate license and license
25 rights of Respondent, under the provisions of Code Sections
26 10165, 10176(a), 10176(f), 10177(d) and/or 10177(g).

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1 NEGLIGENCE

2 12.

3 The overall conduct of Respondent constitutes
4 negligence or incompetence. This conduct and violation are cause
5 for the suspension or revocation of the real estate license and
6 license rights of said Respondent pursuant to Code Section
7 10177(g).

8 WHEREFORE, Complainant prays that a hearing be
9 conducted on the allegations of this Accusation and that upon
10 proof thereof, a decision be rendered imposing disciplinary
11 action against all licenses and/or license rights of Respondent
12 NAZARIO MORENO, d.b.a. Moreno Investments, Castle Properties and
13 formerly d.b.a. Power Home Loans and Realty, under the Real
14 Estate Law and for such other and further relief as may be proper
15 under applicable provisions of law.

16 Dated at Los Angeles, California

17 this 3 day of May, 2010.

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20 _____
21 Robin Trujillo
22 Deputy Real Estate Commissioner
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25 cc: Nazario Moreno
26 Sacto.
27 Robin Trujillo
L.A. Audits