

FILED

BEFORE THE DEPARTMENT OF REAL ESTATE

JUL 26 2012

STATE OF CALIFORNIA

DEPARTMENT OF REAL ESTATE

\* \* \* \*

BY: 

In the Matter of the Accusation of )  
 ) No. H-37605 LA  
 FRANK H. WHITEHEAD III, and )  
 )  
EVELYN VELASQUEZ, )  
 )  
 )  
 Respondents. )  
 )

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DECISION

This Decision is being issued in accordance with the provisions of Section 11520 of the Government Code, on evidence of compliance with Section 11505 of the Government Code and pursuant to the Order of Default filed on June 14, 2012, and the findings of fact set forth herein are based on one or more of the following: (1) Respondent's express admissions; (2) affidavits; and (3) other evidence.

This Decision suspends or revokes one or more real estate licenses on the ground of the violation of the Real Estate Law (commencing with Section 10000 of the Business and Professions Code (Code)) or Chapter 1 (commencing with Section 11000 of the Code) of Part 2 or the rules and regulations of the commissioner for the administration and enforcement of the Real Estate Law and Chapter 1 (commencing with Section 11000 of the Code) of Part 2.

The right to reinstatement of a revoked real estate license or to the reduction of a suspension is controlled by Section 11522 of the Government Code. A copy of Section 11522 and a copy of the Commissioner's Criteria of Rehabilitation are attached hereto for the information of Respondents.

FINDINGS OF FACT

I

On May 31, 2012, Howard Alston made the Second Amended Accusation ("Accusation") in his official capacity as a Deputy Real Estate Commissioner of the State of California. The

Accusation, Statement to Respondent, and Notice of Defense were mailed, by certified mail, to Respondent's last known mailing address on file with the Department on May 31, 2012.

Respondent failed to file a Notice of Defense within the time required by Section 11506 of the Government Code. Respondent's default was entered herein on June 14, 2012.

## II

Respondent EVELYN VELASQUEZ is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate salesperson. Prior to November 17, 2009, Respondent was not licensed by the Department in any capacity. At no time was Respondent employed by a licensed broker.

## III

The evidence established that Respondent engaged in the business of, acted in the capacity of, or advertised a loan modification service and advance fee brokerage offering to perform and performing loan modification services with respect to loans which were secured by liens on real property for compensation or in expectation of compensation and for fees often collected in advance as well as at the conclusion of the transaction on behalf of broker Frank H. Whitehead III, doing business under the authorized fictitious business name "Blue Light Investments." Respondent's activities include but are not limited to the following instances:

a. On or about April 17, 2009, as a result of being solicited by Ruiz, Raul Lopez S. ("Raul") paid a series of advance fees to Ruiz and Respondent VELASQUEZ on behalf of Blue Light Investments. At the direction of Ruiz on or about April 17, 2009, Raul gave Ruiz an advance fee in the amount of \$1,995 by a check made payable to "C & L Financial." Ruiz represented to Raul that the foregoing check was being collected on behalf of Blue Light Investments. Additionally, Raul gave VELASQUEZ and Ruiz personal money orders in the amounts of \$1,000 and \$800 which were made payable to Blue Light Investments. The foregoing advance fees were collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by Blue Light Investments, Ruiz and VELASQUEZ with respect to a loan secured by real property.

b. On or about December 21, 2009, Evaristo F. paid an advance fee of \$3,000 to VELASQUEZ on behalf of Blue Light Investments. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by VELASQUEZ and Blue Light Investments with respect to a loan secured by real property located at 702 E. 84<sup>th</sup> Place, Los Angeles, California.

c. On or about the following dates Rafael R. paid advance fees in the specified amounts to VELASQUEZ on behalf of Blue Light Investments: \$1,000 was paid on March 19, 2009; \$1,000 was paid on April 17, 2009; two payments of \$3,000 each were paid on December 18, 2009; and \$500 was paid on January 22, 2010. The advance fees were collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by VELASQUEZ and Blue Light Investments with respect to loans secured by real properties located at 2051 E. 76<sup>th</sup> Place, Los Angeles, California 90001 and 4723 E. Compton Boulevard, Compton, California 90221.

d. On or about January 27, 2009, Josefina C. paid a \$1,000 advance fee to VELASQUEZ on behalf of Blue Light Investments. The advance fee was collected pursuant to the provisions of an agreement pertaining to loan solicitation, negotiation, and modification services to be provided by VELASQUEZ and Blue Light Investments with respect to a loan secured by the real property located at 10239 Bartee Avenue, Arleta, California 91331.

#### DETERMINATION OF ISSUES

##### I

Based on the information contained in Paragraph III, above, Respondent performed and/or participated in activities which require a real estate broker license under the provisions of Code Sections 10131(d) and 10131.2 during a period of time when Respondent was not licensed by the Department as a real estate broker, nor employed as a real estate salesperson by a broker on whose behalf the activities were performed, in violation of Code Section 10130 which is cause to suspend or revoke the license and license rights of Respondent pursuant to Code Sections 10177(d), 10177(g) and 10177(j).

##### II

The standard of proof applied was clear and convincing proof to a reasonable certainty.

ORDER

The licenses and license rights of Respondent EVELYN VELASQUEZ under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock  
noon AUG 15 2012.

DATED: 7/17/12.

REAL ESTATE COMMISSIONER



By WAYNE S. BELL  
Chief Counsel

1 Department of Real Estate  
2 320 West Fourth Street, Suite 350  
3 Los Angeles, California 90013-1105  
4 (213) 576-6982

**FILED**

JUN 14 2012

DEPARTMENT OF REAL ESTATE  
BY: 

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

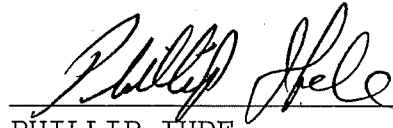
9 \* \* \* \*

10  
11 In the Matter of the Accusation of )  
12 ) NO. H-37605 LA  
13 FRANK H. WHITEHEAD III, and )  
14 EVELYN VELASQUEZ, ) DEFAULT ORDER  
15 )  
16 Respondent(s). )  
17 )

18 Respondent, EVELYN VELASQUEZ, having failed to file a  
19 Notice of Defense within the time required by Section 11506 of  
20 the Government Code, is now in default. It is, therefore,  
21 ordered that a default be entered on the record in this matter.

22 IT IS SO ORDERED June 14, 2012.

23 Real Estate Commissioner

24   
25 By: PHILLIP IHDE  
26 Regional Manager  
27

7256

1 Department of Real Estate  
2 320 West 4th Street, Suite 350  
3 Los Angeles, CA 90013-1105  
4 Telephone: (213) 576-6982

**FILED**

JUL 26 2012

DEPARTMENT OF REAL ESTATE  
BY: [Signature]

9 BEFORE THE DEPARTMENT OF REAL ESTATE  
10 STATE OF CALIFORNIA

11 \* \* \*

12		
13	In the Matter of the Accusation of )	NO. H-37605 LA
	)	
14	<u>FRANK H. WHITEHEAD III, and</u> )	L-2011110969
	<u>EVELYN VELASQUEZ,</u> )	
15	)	<u>STIPULATION AND AGREEMENT</u>
	)	
16	)	
	)	
17	Respondents. )	
	)	

18  
19 It is hereby stipulated by and between FRANK H.  
20 WHITEHEAD III (sometimes referred to as "Respondent"), and the  
21 Complainant, acting by and through Cheryl Keily, Counsel for  
22 the Department of Real Estate, as follows for the purpose of  
23 settling and disposing of the Second Amended Accusation  
24 ("Accusation") filed on May 31, 2012, in this matter.  
25

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

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

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

10 3. On November 16, 2011, Respondent filed a Notice of  
11 Defense, pursuant to Section 11506 of the Government Code for  
12 the purpose of requesting a hearing on the allegations in the  
13 Accusation. Respondent hereby freely and voluntarily withdraws  
14 said Notice of Defense. Respondent acknowledges that he  
15 understands that by withdrawing said Notice of Defense he will  
16 thereby waive his right to require the Commissioner to prove the  
17 allegations in the Accusation at a contested hearing held in  
18 accordance with the provisions of the APA and that he will waive  
19 other rights afforded to him in connection with the hearing,  
20 such as the right to present evidence in defense of the  
21 allegations in the Accusation and the right to cross-examine  
22 witnesses.  
23  
24

25 4. It is understood by the parties that the Real  
26 Estate Commissioner may adopt the Stipulation and Agreement as  
27 his decision in this matter, thereby imposing the penalty and

1 sanctions on Respondent's real estate licenses and license  
2 rights as set forth in the below "Order". In the event that  
3 the Commissioner in his discretion does not adopt the  
4 Stipulation and Agreement, it shall be void and of no effect,  
5 and Respondent shall retain the right to a hearing and  
6 proceeding on the Accusation under all the provisions of the  
7 APA and shall not be bound by any admission or waiver made  
8 herein.  
9

10           5. This Stipulation is based on the factual  
11 allegations contained in the Accusation. In the interest of  
12 expedience and economy, Respondent chooses not to contest these  
13 allegations, but to remain silent and understand that, as a  
14 result thereof, these factual allegations, without being  
15 admitted or denied, will serve as a prima facie basis for the  
16 disciplinary action stipulated to herein. The Real Estate  
17 Commissioner shall not be required to provide further evidence  
18 to prove said factual allegations.  
19

20           6. This Stipulation and Respondents' decision not to  
21 contest the Accusation are made for the purpose of reaching an  
22 agreed disposition of this proceeding, and are expressly  
23 limited to this proceeding and any other proceeding or case in  
24 which the Department of Real Estate, or another licensing  
25 agency of this state, another state or the federal government  
26 is involved and otherwise shall not be admissible in any other  
27





1 Decision; provided, however, that the entire period of said  
2 suspension shall be stayed for two (2) years upon the following  
3 terms and conditions;

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

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

15           II. Respondent shall, within six months from the  
16 effective date of this Decision, take and pass the Professional  
17 Responsibility Examination administered by the Department  
18 including the payment of the appropriate examination fee. If  
19 Respondent fails to satisfy this condition, the Commissioner may  
20 order suspension of Respondent's license until Respondent passes  
21 the examination.

22           III. Within one year of the effective date of the  
23 Decision, Respondent shall make restitution to those persons  
24 who allegedly suffered monetary loss as a result of the  
25  
26  
27

1 allegations set forth in the Accusation filed in this case as  
2 follows:

3 1. Respondent shall provide proof of restitution  
4 satisfactory to the Real Estate Commissioner of restitution to  
5 the following individuals and in the amounts specified:

6 a. Josefina Cortes in the amount of \$2,770;

7 b. Raul Lopez Silva in the amount of \$1,995;

8 c. Paulo Azevedo in the amount of \$1,000;

9 d. Evaristo Figueroa in the amount of \$3,000; and

10 e. Rafael Rodriguez in the amount of \$7,500.

11 2. All proof of payment of restitution shall be  
12 submitted to Department Counsel Cheryl Keily, Attention: Legal  
13 Section, Department of Real Estate, 320 W. Fourth St., Suite  
14 350, Los Angeles, California 90013-1105, on or before the time  
15 set for performance.

16 3. If Respondent fails to satisfy these conditions,  
17 the Real Estate Commissioner may order suspension of  
18 Respondent's license until Respondent provides proof of  
19 restitution satisfactory to the Commissioner.

20  
21 DATED: 6/7/12

22 Cheryl D. Keily  
23 CHERYL D. KEILY, Counsel  
24 DEPARTMENT OF REAL ESTATE

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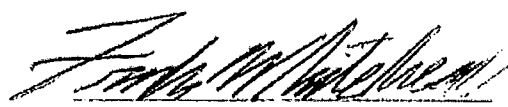
26 I have read the Stipulation and Agreement, and its  
27 terms are understood by me and are agreeable and acceptable to  
me. I understand that I am waiving rights given to me by the



California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I 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 I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

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

DATED: 6-7-12

  
FRANK H. WHITEHEAD III,  
Respondent

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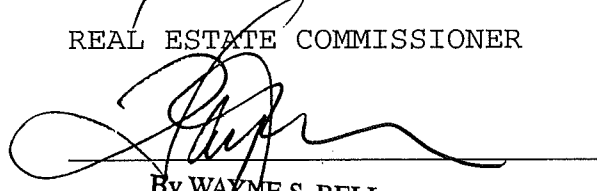
\* \* \*

The foregoing Stipulation and Agreement is hereby  
adopted as my Decision in this matter and shall become  
effective at 12 o'clock noon on AUG 15 2012, 2012.

IT IS SO ORDERED

7/13/2012

REAL ESTATE COMMISSIONER



By WAYNE S. BELL  
Chief Counsel