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 DEPARTMENT OF REAL ESTATE
 By *L. Frost*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
 9 STATE OF CALIFORNIA

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11
 12 In the Matter of the Accusation of)
)
 13 JOHN JAY MANGUBA NATIVIDAD,) No. H-5986 SAC
)
 14 Respondent.) ACCUSATION
 15)

16 The Complainant, TRICIA D. SOMMERS, acting in her official capacity as a
 17 Deputy Real Estate Commissioner of the State of California, makes this Accusation in her
 18 official capacity against JOHN JAY MANGUBA NATIVIDAD ("Respondent") and alleges as
 19 follows:

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21 At all times herein mentioned, Respondent was and now is licensed and/or has
 22 license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions
 23 Code) (herein "the Code") as a real estate broker. At all times relevant to this Accusation,
 24 Respondent was doing business as Majestic Realty Group.

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26 Whenever reference is made in an allegation in this Accusation to an act or
 27 omission of Respondent and/or Majestic Realty Group, such allegation shall be deemed to mean

1 that the employees, agents, real estate licensees, and others employed by or associated with
2 Respondent committed such act or omission while engaged in furtherance of the business or
3 operations of Respondent and while acting within the course and scope of their authority and
4 employment.

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6 At all times herein mentioned Respondent engaged in the business of, acted in
7 the capacity of, advertised, or assumed to act as a real estate broker for compensation, or in
8 expectation of compensation, within the State of California within the meaning of Section
9 10131(a) of the Code, wherein Respondent sold or offered to sell, bought or offered to buy,
10 solicited prospective sellers or purchasers of, solicited or obtained listings of, or negotiated the
11 purchase, sale or exchange of real property or a business opportunity.

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13 On about January 9, 2011, Respondent entered into a California Residential
14 Listing Agreement to list for sale, real property owned by Fidel and Carrie A. ("Fidel and
15 Carrie") located on Camino Segura in Pleasanton, CA ("Subject Property").

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17 On or about January 23, 2011, Respondent entered into an agency relationship
18 with Tao W. and Hong C. who at the time were prospective buyers of the Subject Property. On
19 or about January 23, 2011, Respondent, Fidel and Carrie A., Tao W. and Hong C. completed a
20 document entitled Disclosure Regarding Real Estate Agency Relationship. Respondent
21 thereafter lawfully represented both the buyers and sellers of the Subject Property. Also on or
22 about January 23, 2011, Tao W. and Hong C. completed a California Residential Purchase
23 Agreement and Joint Escrow Instructions for the purchase of the Subject Property.

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25 At all relevant times, the Subject Property was being rented by Charles B.
26 ("Complainant"). On or about February 14, 2011, after becoming aware of the potential sale of
27 the Subject Property, Complainant contacted Respondent to let Respondent know that

1. Complainant planned to move out of the Subject Property and that he wanted his deposit returned
2 by Fidel and Carrie A. upon moving out. Complainant further informed Respondent at that time
3 that if Fidel and Carrie A. did not refund the deposit, the new buyers would be responsible for
4 Complainant's deposit.

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6 On several other occasions prior to the purchase of the Subject Property by Tao
7 W. and Hong C., Complainant informed Respondent that Complainant intended to hold Tao W.
8 and Hong C. liable for the return of Complainant's deposit should Fidel and Carrie A. not
9 refund the deposit.

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11 At all relevant times, Respondent failed to inform his clients Tao W. and Hong
12 C. of Complainant's repeated threat regarding Complainant's deposit as discussed above in
13 Paragraphs 6 and 7, despite Respondent being fully aware of Complainant's threat.

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15 On or about May 24, 2011 in the Superior Court of the State of California,
16 County of Alameda, Case Number VS11577120, Complainant filed a civil action against Fidel
17 and Carrie A. and Tao W. and Hong C. for \$7,500 in damages associated with the failure of the
18 return of Complainant's deposit. On June 1, 2012, the court entered a judgment in favor of
19 Complainant requiring Fidel and Carrie A. to pay Complainant \$6,025.

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21 The facts alleged above are grounds for the suspension or revocation of the license
22 and license rights of Respondent under Section 10177(g) of the Code.

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24 The Department will seek to recover cost of this suit pursuant to Section 10106 of
25 the Code which provides, in pertinent part, that in any order issued in resolution of a disciplinary
26 proceeding before the Department, the commissioner may request the administrative law judge to

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1 direct a licensee found to have committed a violation of this part to pay a sum not to exceed the
2 reasonable costs of the investigation and enforcement of the case.

3 WHEREFORE, Complainant prays that a hearing be conducted on the allegations
4 of this Accusation and that upon proof thereof, a decision be rendered revoking all licenses and
5 license rights of Respondent under the Real Estate Law, for the cost of investigation and
6 enforcement as permitted by law, and for such other and further relief as may be proper under
7 other provisions of law.

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9 TRICIA D. SOMMERS
10 Deputy Real Estate Commissioner
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12 Dated at Sacramento, California,
13 this 18th day of March, 2013.

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16 DISCOVERY DEMAND

17 Pursuant to Sections 11507.6, *et seq.* of the *Administrative Procedure Act*, the Department
18 hereby makes demand for discovery pursuant to the guidelines set forth in the *Administrative*
19 *Procedure Act*. Failure to provide Discovery to the Department may result in the exclusion of
20 witnesses and documents at the hearing or other sanctions that the Office of Administrative
21 Hearings deems appropriate.

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