

FILED
JUN 07 2005

DEPARTMENT OF REAL ESTATE

By Anne Marston

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

| | | |
|------------------------------------|---|------------------------|
| In the Matter of the Accusation of |) | No. H-9041 SF |
| |) | |
| ARNALDO BAYOT SALAZAR and |) | <u>STIPULATION AND</u> |
| MARILYN ABADILLA PEREZ, |) | <u>AGREEMENT</u> |
| |) | |
| Respondents. |) | |

It is hereby stipulated by and between MARILYN ABADILLA PEREZ (hereafter Respondent), and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the First Amended Accusation (hereafter Accusation) filed on March 1, 2005 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be

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

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

6 3. On December 14, 2004, Respondent filed a Notice of
7 Defense pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that she
11 understands that by withdrawing said Notice of Defense she will
12 thereby waive her rights to require the Commissioner to prove the
13 allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA, and that she will
15 waive other rights afforded to her in connection with the hearing
16 such as the right to present evidence in defense of the
17 allegations in the Accusation and the right to cross-examine
18 witnesses.

19 4. Respondent, pursuant to the limitations set forth
20 below, hereby admits that the factual allegations pertaining to
21 her in Paragraphs I, II, IV, V, and VI of the Accusation filed in
22 this proceeding are true and correct and the Real Estate
23 Commissioner shall not be required to provide further evidence of
24 such allegations.

25 5. Without admitting the truth of the allegations
26 contained in Paragraphs VII through X and XII of the Accusation,
27 Respondent stipulates that she will not interpose a defense

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

9 6. The Order or any subsequent Order of the Real
10 Estate Commissioner made pursuant to this Stipulation and
11 Agreement shall not constitute an estoppel, merger or bar to any
12 further administrative or civil proceedings by the Department of
13 Real Estate with respect to any matters which were not
14 specifically alleged to be causes for accusation in this
15 proceeding.

16 * * *

17 DETERMINATION OF ISSUES

18 By reason of the foregoing stipulations and waivers and
19 solely for the purpose of settlement of the pending Accusation
20 without a hearing, it is stipulated and agreed that the following
21 determination of issues shall be made:

22 The acts and/or omissions of Respondent MARILYN
23 ABADILLA PEREZ as stipulated above violate Section 10176(a) and
24 10177(g) of the California Business and Professions Code.

1 * * *

2 ORDER

3 I

- 4 A. All real estate license(s) and license rights of Respondent
5 MARILYN ABADILLA PEREZ are revoked.
- 6 B. A restricted real estate salesperson license shall be issued
7 to Respondent pursuant to Section 10156.6 of the Code if
8 Respondent makes application therefor and pays to the
9 Department the appropriate fee for said license within ninety
10 (90) days of the effective date of the Order.
- 11 C. The restricted license issued to Respondent shall be subject
12 to all of the provisions of Section 10156.7 of the Business
13 and Professions Code and to the following conditions and
14 limitations imposed under authority of Section 10156.6 of
15 said Code:
- 16 1) The restricted license issued to Respondent may be
17 suspended prior to hearing by order of the Real Estate
18 Commissioner in the event of Respondent's conviction or
19 plea of nolo contendere to a crime which bears a
20 substantial relationship to Respondent's fitness or
21 capacity as a real estate licensee.
- 22 2) The restricted license may be suspended prior to hearing
23 by Order of the Real estate Commissioner on evidence
24 satisfactory to the Commissioner that Respondent has
25 violated provisions of the California Real Estate Law,
26 the Subdivided Lands Law, Regulations of the Real Estate
27

1 Commissioner or conditions attaching to the restricted
2 license.

3 3) Respondent shall submit with any application for license
4 under an employing broker, or any application for
5 transfer to a new employing broker, a statement signed by
6 the prospective employing real estate broker on a form
7 approved by the Department of Real Estate which shall
8 certify:

9 (a) That the employing broker has read the Decision of
10 the Commissioner which granted the right to a
11 restricted license; and

12 (b) That the employing broker will exercise close
13 supervision over the performance by the restricted
14 licensee relating to activities for which a real
15 estate license is required.

16 4) Respondent shall not be eligible to apply for the
17 issuance of an unrestricted real estate license, nor the
18 removal of any of the conditions of the restricted
19 license, until two (2) years have elapsed from the
20 effective date of this Order.

21 5) Respondent shall, within nine (9) months from the
22 effective date of this Order, present evidence
23 satisfactory to the Real Estate Commissioner that
24 Respondent has, since the most recent issuance of an
25 original or renewal real estate license, taken and
26 successfully completed the continuing education
27 requirements of Article 2.5 of Chapter 3 of the Real

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Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of the restricted license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for hearing pursuant to the Administrative Procedure Act to present such evidence.

5/17/05

DATED

Truly Sughrue

TRULY SUGHRUE
Counsel for Complainant

* * *

I have read the Stipulation and Agreement, have discussed it with my counsel, and its 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, 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.

5/11/05

DATED

Marilyn Abadilla Perez

MARILYN ABADILLA PEREZ
Respondent

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I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

May 11, 2005
DATED

Lois G. Molina
LOIS G. MOLINA
Attorney for Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on JUNE 27, 2005.

IT IS SO ORDERED *6-1*, 2005.

JEFF DAVI
Real estate Commissioner

Jeff Davi

FLAG

FILED
MAY 04 2005

DEPARTMENT OF REAL ESTATE

By Anne Sharrow

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

| | | |
|------------------------------------|---|------------------------|
| In the Matter of the Accusation of |) | No. H-9041 SF |
| |) | |
| ARNALDO BAYOT SALAZAR and |) | <u>STIPULATION AND</u> |
| MARILYN ABADILLA PEREZ, |) | <u>AGREEMENT</u> |
| |) | |
| Respondents. |) | |

It is hereby stipulated by and between ARNALDO BAYOT SALAZAR (hereafter Respondent), and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the First Amended Accusation (hereafter Accusation) filed on March 1, 2005 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be

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

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

6 3. On December 15, 2004, Respondent filed a Notice of
7 Defense pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that he
11 understands that by withdrawing said Notice of Defense he will
12 thereby waive his rights to require the Commissioner to prove the
13 allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA, and that he will waive
15 other rights afforded to him in connection with the hearing such
16 as the right to present evidence in defense of the allegations in
17 the Accusation and the right to cross-examine witnesses.

18 4. Respondent, pursuant to the limitations set forth
19 below, hereby admits that the factual allegations pertaining to
20 him in Paragraphs I, II, III, V, and VI of the Accusation filed
21 in this proceeding are true and correct and the Real Estate
22 Commissioner shall not be required to provide further evidence of
23 such allegations.

24 5. Without admitting the truth of the allegations
25 contained in Paragraphs XIII, XIV, XVIII, and XIX of the
26 Accusation, Respondent stipulates that he will not interpose a
27 defense thereto. This Stipulation is based on the factual

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

9 6. The Order or any subsequent Order of the Real
10 Estate Commissioner made pursuant to this Stipulation and
11 Agreement shall not constitute an estoppel, merger or bar to any
12 further administrative or civil proceedings by the Department of
13 Real Estate with respect to any matters which were not
14 specifically alleged to be causes for accusation in this
15 proceeding.

16 * * *

17 DETERMINATION OF ISSUES

18 By reason of the foregoing stipulations and waivers and
19 solely for the purpose of settlement of the pending Accusation
20 without a hearing, it is stipulated and agreed that the following
21 determination of issues shall be made:

22 The acts and/or omissions of Respondent ARNALDO BAYOT
23 SALAZAR as stipulated above violate Section 10240(c) of the
24 California Business and Professions Code (hereinafter Code) and
25 Section 2831(a)(6) of the Title 10, California Code of
26 Regulations, and constitute grounds for disciplinary action under
27 the provisions of Section 10177(d) of the Code.

1 * * *

2 ORDER

3 I

4 All licenses and licensing rights of Respondent ARNALDO
5 BAYOT SALAZAR under the Real Estate Law are suspended for a
6 period of thirty (30) days from the effective date of this Order;
7 provided, however, that:

8 1) Thirty (30) days of said suspension shall be stayed, upon the
9 condition that each Respondent petition pursuant to Section
10 10175.2 of the Business and Professions Code and each pays a
11 monetary penalty pursuant to Section 10175.2 of the Business
12 and Professions Code at a rate of \$166 for each day of the
13 suspension for a total monetary penalty of \$5,000.

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

19 b) No further cause for disciplinary action against the Real
20 Estate licenses of said Respondent occurs within two (2)
21 years from the effective date of the decision in this
22 matter.

23 c) If any Respondent fails to pay the monetary penalty as
24 provided above prior to the effective date of this Order,
25 the stay of the suspension shall be vacated as to that
26 Respondent and the order of suspension shall be immediately
27 executed, under this Paragraph 2 of this Order, in which

1 event the said Respondent shall not be entitled to any
 2 repayment nor credit, prorated or otherwise, for the money
 3 paid to the Department under the terms of this Order.

4 2) If said Respondents pay the monetary penalty and any other
 5 moneys due under this Stipulation and Agreement and if no,
 6 further cause for disciplinary action against the real estate
 7 licenses of said Respondents occurs within two (2) years from
 8 the effective date of this Order, the entire stay hereby
 9 granted under Paragraph 1 of this Order, as to said
 10 Respondents only, shall become permanent.

11 7-April-05
 12 DATED

11 *[Signature]*
 12 TRULY SUGHRUE
 13 Counsel for Complainant

14 * * *

15 I have read the Stipulation and Agreement, and its
 16 terms are understood by me and are agreeable and acceptable to
 17 me. I understand that I am waiving rights given to me by the
 18 California Administrative Procedure Act, and I willingly,
 19 intelligently and voluntarily waive those rights, including the
 20 right of requiring the Commissioner to prove the allegations in
 21 the Accusation at a hearing at which I would have the right to
 22 cross-examine witnesses against me and to present evidence in
 23 defense and mitigation of the charges.

24
 25 APRIL 4, 2005
 26 DATED

25 *[Signature]*
 26 ARNALDO BAYOT SALAZAR
 27 Respondent

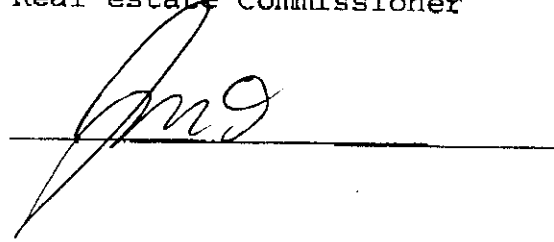
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The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on MAY 24, 2005.

IT IS SO ORDERED 4-28-05, 2005.

JEFF DAVI
Real estate Commissioner



FILED
MAR 01 2005

DEPARTMENT OF REAL ESTATE

By *Gene Shawnee*

1 TRULY SUGHRUE, Counsel
State Bar No. 223266
2 Department of Real Estate
P.O. Box 187007
3 Sacramento, CA 95818-7007
4 Telephone: (916) 227-0781
5
6
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-9041 SF
12 ARNALDO BAYOT SALAZAR, and) FIRST AMENDED
13 MARILYN ABADILLA PEREZ,) ACCUSATION
14 Respondent.

15 The Complainant, E. J. HABERER II, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ARNALDO BAYOT SALAZAR and MARILYN ABADILLA PEREZ (herein
18 "Respondents"), is informed and alleges as follows:

19 PRELIMINARY ALLEGATIONS

20 I

21 The Complainant, E. J. HABERER II, a Deputy Real Estate
22 Commissioner of the State of California, makes this Accusation in
23 his official capacity.

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II

At all times herein mentioned, Respondents were and now are licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (herein "the Code").

III

At all times herein mentioned, Respondent ARNALDO BAYOT SALAZAR (hereafter "SALAZAR") was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker, individually and doing business as REALTY WORLD BONANZA (hereafter "REALTY WORLD").

IV

Respondent MARILYN ABADILLA PEREZ (hereafter "PEREZ") was employed by Estrillita Aquino Valentin as a real estate salesperson from March 12, 2002 through September 30, 2003. Respondent PEREZ was employed by Respondent SALAZAR as a real estate salesperson from October 1, 2003 through April 4, 2004.

V

At all times herein mentioned, Respondents were performing acts requiring a real estate license for or in expectation of a compensation.

VI

Beginning in October of 2003, the Department conducted an audit of the above business activities of Respondent Salazar for the time period of January 1, 2003 through November 4, 2003.

\\

FIRST CAUSE OF ACTION

VII

1
2
3 On or about August 15, 2003, Respondent PEREZ prepared
4 and submitted a written offer for the purpose of real property
5 located at 809 Larch Avenue, South San Francisco, California by
6 Rosemary B. Arriola (herein after "BUYER"). Respondent PEREZ
7 represented in said offer that she was in receipt of a check in
8 the amount of \$1,000 from BUYER, to be deposited in escrow within
9 the next business day after acceptance of the offer.

VIII

10
11 On or about August 16, 2003, seller submitted a written
12 counteroffer for the above property. The counteroffer provided,
13 among other things, that an additional deposit of \$14,600 would
14 be deposited into the escrow holder account on August 18, 2003.

IX

15
16 On or about August 18, 2003, BUYER accepted the
17 counteroffer. BUYER also signed a Receipt for Increased
18 Deposit/Liquidated Damages form, which stated that the total
19 deposit was \$15,600.

X

20
21 Respondent's representation that she was in receipt of
22 the \$15,600 check(s) was false. The counteroffer was accepted,
23 but only \$1,000 was placed into escrow. Further the check was
24 not deposited to escrow until September 2, 2003.

XI

25
26 Respondent's conduct described in Paragraph X above
27 constitutes the making of substantial misrepresentations, and

1 fraud or dishonest dealing, and is cause under Sections 10176(a)
2 and 10176(i) of the Code for suspension or revocation of all
3 licenses and license rights of Respondent.

4 XII

5 In the alternative, Respondent's conduct described
6 in Paragraph X above constitutes the making of substantial
7 misrepresentations, and negligence or incompetence in performing
8 acts requiring a real estate license, and is cause under
9 Sections 10176(a) and 10177(g) of the Code for suspension or
10 revocation of all licenses and license rights of Respondent.

11 SECOND CAUSE OF ACTION

12 XIII

13 Respondent SALAZAR received a deposit check dated July
14 23, 2003 from Alfred and Maria Argo pursuant to the Argo's offer
15 to purchase real property. The check was not recorded in the
16 Record of Trust Funds Not Placed in a Trust Account as required
17 under Section 2831(a)(6) of the Regulations.

18 XIV

19 Respondent SALAZAR conduct described in Paragraph XIII
20 above constitutes cause under Sections 10177(d) of the Code for
21 suspension or revocation of all licenses and license rights of
22 Respondent under the Real Estate Law.

23 THIRD CAUSE OF ACTION

24 XV

25 As provided in Paragraph IV, above, Respondent PEREZ
26 was employed by Estrillita Aquino Valentin as a real estate
27

1 salesperson from March 12, 2002. through September 30, 2003.
2 Estrollita Aquino Valentin died on July 16, 2003.

3 XVI

4 Beginning on or before August 2003, and at various
5 times thereafter, for compensation or in expectation of
6 compensation, Respondent PEREZ engaged in acts requiring a real
7 estate license. Said acts include, but are not limited to, the
8 activities described in Paragraphs VII, VIII, IX, and X.

9 XVII

10 By the commission of the acts alleged in Paragraph XVI,
11 above, Respondent PEREZ engaged in the business and acted in the
12 capacity of a real estate broker within the State of California
13 as defined by Section 10131(a) of the Code. The conduct of
14 Respondent PEREZ constitutes cause under Sections 10177(d) of the
15 Code for suspension or revocation of all licenses and license
16 rights of Respondent under the Real Estate Law.

17 FOURTH CAUSE OF ACTION

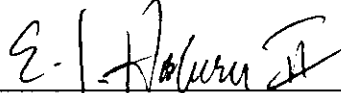
18 XVIII

19 Respondent SALAZAR failed to provide his license number
20 on the required Mortgage Loan Disclosure Statement made to
21 borrower Daniel Alarcon, and Cesar and Mercedita Salazar in
22 violation of Section 10240(c) of the Code.
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XIX

1 Respondent SALAZAR conduct described in Paragraph XVIII
2 above constitutes cause under Sections 10177(d) of the Code for
3 suspension or revocation of all licenses and license rights of
4 Respondent under the Real Estate Law.
5

6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof, a decision be rendered imposing disciplinary
9 action against all licenses and license rights of Respondents,
10 under the Real Estate Law (Part 1 of Division 4 of the Business
11 and Professions Code), and for such other and further relief as
12 may be proper under other provisions of law.

13 
14 E. J. HABERER II
15 Deputy Real Estate Commissioner

16 Dated at Sacramento, California,
17 this 25 day of February, 2005
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FLAG

FILED
JAN 04 2005

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

By *Carme Maurin*

In the Matter of the Accusation of

ARNALDO BAYOT SALAZAR and
MARILYN ABADILLA PEREZ

}
}

Case No. H-9041 SF

OAH No.

Respondents

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **WEDNESDAY, APRIL 6, 2005**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: JANUARY 4, 2005

By *Truly Sughrue/as*
TRULY SUGHRUE, Counsel

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED
DEC 03 2004

DEPARTMENT OF REAL ESTATE

By *Les R. Bettencourt*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ARNALDO BAYOT SALAZAR, and) No. H- 9041 SF
13 MARILYN ABADILLA PEREZ,) ACCUSATION
14 Respondent.)

15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against ARNALDO BAYOT SALAZAR and MARILYN ABADILLA
18 PEREZ (herein "Respondents"), is informed and alleges as follows:
19

20 PRELIMINARY ALLEGATIONS

21 I

22 The Complainant, LES R. BETTENCOURT, a Deputy Real
23 Estate Commissioner of the State of California, makes this
24 Accusation in his official capacity.

25 \\\

26 \\\

27

II

1 At all times herein mentioned, Respondents were and now
2 are licensed and/or has license rights under the Real Estate Law
3 (Part 1 of Division 4 of the Business and Professions Code)
4 (herein "the Code").
5

6 III

7 At all times herein mentioned, Respondent ARNALDO BAYOT
8 SALAZAR (hereafter "SALAZAR") was and is licensed by the
9 Department of Real Estate (hereafter the Department) as a real
10 estate broker, individually and doing business as REALTY WORLD
11 BONANZA (hereafter "REALTY WORLD").
12

13 IV

14 Respondent MARILYN ABADILLA PEREZ (hereafter "PEREZ")
15 was employed by Estrillita Aquino Valentin as a real estate
16 salesperson from March 12, 2002 through September 30, 2003.
17 Respondent PEREZ was employed by Respondent SALAZAR as a real
18 estate salesperson from October 1, 2003 through April 4, 2004.
19

20 V

21 At all times herein mentioned, Respondents were
22 performing acts requiring a real estate license for or in
23 expectation of a compensation.

24 VI

25 Beginning in October of 2003, the Department conducted
26 an audit of the above business activities of Respondent Salazar
27 for the time period of January 1, 2003 through November 4, 2003.

FIRST CAUSE OF ACTION

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VII

On or about August 15, 2003, Respondent PEREZ prepared and submitted a written offer for the purpose of real property located at 809 Larch Avenue, South San Francisco, California by Rosemary B. Arriola (herein after "BUYER"). Respondent PEREZ represented in said offer that she was in receipt of a check in the amount of \$1,000 from BUYER, to be deposited in escrow within the next business day after acceptance of the offer.

VIII

On or about August 16, 2003, seller submitted a written counteroffer for the above property. The counteroffer provided, among other things, that an additional deposit of \$14,600 would be deposited into the escrow holder account on August 18, 2003.

IX

On or about August 18, 2003, BUYER accepted the counteroffer. BUYER also signed a Receipt for Increased Deposit/Liquidated Damages form, which stated that the total deposit was \$15,600.

X

Respondent's representation that she was in receipt of the \$15,600 check(s) was false. The counteroffer was accepted, but only \$1,000 was placed into escrow. Further the check was not deposited to escrow until September 2, 2003.

XI

1 Respondent's conduct described in Paragraph X above
2 constitutes the making of substantial misrepresentations, and
3 fraud or dishonest dealing, and is cause under Sections 10176(a)
4 and 11076(i) of the Code for suspension or revocation of all
5 licenses and license rights of Respondent.
6

7 XII

8 In the alternative, Respondent's conduct described
9 in Paragraph X above constitutes the making of substantial
10 misrepresentations, and negligence or incompetence in performing
11 acts requiring a real estate license, and is cause under
12 Sections 10176(a) and 11077(g) of the Code for suspension or
13 revocation of all licenses and license rights of Respondent.
14

15 SECOND CAUSE OF ACTION

16 XIII

17 Respondent SALAZAR received a deposit check dated July
18 23, 2003 from Alfred and Maria Argo pursuant to the Argo's offer
19 to purchase real property. The check was not recorded in the
20 Record of Trust Funds Not Placed in a Trust Account as required
21 under Section 2831(a)(6) of the Regulations.
22
23
24
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27

XIV

1 Respondent SALAZAR conduct described in Paragraph XIII
2 above constitutes cause under Sections 10177(d) of the Code for
3 suspension or revocation of all licenses and license rights of
4 Respondent under the Real Estate Law.
5

6 THIRD CAUSE OF ACTION

7 XV

8 As provided in Paragraph IV, above, Respondent PEREZ
9 was employed by Estrillita Aquino Valentin as a real estate
10 salesperson from March 12, 2002. through September 30, 2003.
11 Estrollita Aquino Valentin died on July 16, 2003.
12

13 XVI

14 Beginning on or before August 2003, and at various
15 times thereafter, for compensation or in expectation of
16 compensation, Respondent PEREZ engaged in acts requiring a real
17 estate license. Said acts include, but are not limited to, the
18 activities described in Paragraphs VII, VIII, IX, and X.
19

20 XVII

21 By the commission of the acts alleged in Paragraph XVI,
22 above, Respondent PEREZ engaged in the business and acted in the
23 capacity of a real estate broker within the State of California
24 as defined by Section 10131(a) of the Code. The conduct of
25 Respondent PEREZ constitutes cause under Sections 10177(d) of the
26 Code for suspension or revocation of all licenses and license
27 rights of Respondent under the Real Estate Law.

1
2 FOURTH CAUSE OF ACTION


3 XVIII

4 Respondent SALAZAR failed to provide his license number
5 on the required Mortgage Loan Disclosure Statement made to
6 borrower Daniel Alarcon, and Cesar and Mercedita Salazar in
7 violation of Section 10240(c) of the Code.

8 XIX

9 Respondent SALAZAR conduct described in Paragraph XVIII
10 above constitutes cause under Sections 10177(d) of the Code for
11 suspension or revocation of all licenses and license rights of
12 Respondent under the Real Estate Law.

13 WHEREFORE, Complainant prays that a hearing be
14 conducted on the allegations of this Accusation and that upon
15 proof thereof, a decision be rendered imposing disciplinary
16 action against all licenses and license rights of Respondents,
17 under the Real Estate Law (Part 1 of Division 4 of the Business
18 and Professions Code), and for such other and further relief as
19 may be proper under other provisions of law.
20

21 
22 LES R. BETTENCOURT
23 Deputy Real Estate Commissioner

24 Dated at Sacramento, California,
25 this 27th day of September, 2004
26
27