

1 DEPARTMENT OF REAL ESTATE
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3 Sacramento, CA 95818-7007

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FILED

AUG - 1 2012

DEPARTMENT OF REAL ESTATE

By K. Contreras

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 ADEPT CONSULTING SERVICES,) NO. H-2643 FR
13 INC., a Corporation; and) STIPULATION AND AGREEMENT
14 RODOLFO ARRIVAS,) IN SETTLEMENT AND ORDER
15 Respondents.) (as to RODOLFO ARRIVAS, only)

16 It is hereby stipulated by and between Respondent RODOLFO ARRIVAS (herein
17 "ARRIVAS"), and the Complainant, acting by and through Mary F. Clarke, Counsel for the
18 Department of Real Estate (herein "the Department"), as follows for the purpose of settling and
19 disposing of the Accusation filed on June 20, 2011 in this matter:

20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondent ARRIVAS at a formal hearing on the Accusation,
22 which hearing was to be held in accordance with the provisions of the Administrative Procedure
23 Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions
24 of this Stipulation and Agreement in Settlement and Order.

25 2. Respondent ARRIVAS has received, read and understands the Statement to
26 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Department
27 in this proceeding.

1 3. A Notice of Defense was filed on September 15, 2011, by Respondent
2 ARRIVAS pursuant to Section 11505 of the Government Code for the purpose of requesting a
3 hearing on the allegations in the Accusation. Respondent ARRIVAS hereby freely and
4 voluntarily withdraws said Notice of Defense. Respondent ARRIVAS acknowledges that he
5 understands that by withdrawing said Notice of Defense, he will thereby waive his right to
6 require the Real Estate Commissioner (herein the "Commissioner") to prove the allegations in
7 the Accusation at a contested hearing held in accordance with the provisions of the APA and that
8 he will waive other rights afforded to him in connection with the hearing such as the right to
9 present evidence in defense of the allegations in the Accusation and the right to cross-examine
10 witnesses.

11 4. Respondent ARRIVAS, pursuant to the limitations set forth below, hereby
12 admits that the factual allegations pertaining to him in the Accusation filed in this proceeding are
13 true and correct and the Commissioner shall not be required to provide further evidence of such
14 allegations.

15 5. It is understood by the parties that the Commissioner may adopt the
16 Stipulation and Agreement in Settlement and Order as his/her decision in this matter thereby
17 imposing the penalty and sanctions on Respondent ARRIVAS' real estate license and license
18 rights as set forth in the below "Order". In the event that the Commissioner in his/her discretion
19 does not adopt the Stipulation and Agreement in Settlement and Order, it shall be void and of
20 no effect, and Respondent ARRIVAS shall retain the right to a hearing and proceeding on the
21 Accusation under all the provisions of the APA and shall not be bound by any admission or
22 waiver made herein.

23 6. The Order or any subsequent Order of the Commissioner made pursuant to this
24 Stipulation and Agreement in Settlement and Order shall not constitute an estoppel, merger, or bar
25 to any further administrative or civil proceedings by the Department with respect to any matters
26 which were not specifically alleged to be causes for accusation in this proceeding.

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1 DETERMINATION OF ISSUES

2 I

3 The acts and omissions of Respondent ARRIVAS in that he failed to exercise
4 reasonable supervision over the acts of Respondent ADEPT CONSULTING SERVICES, INC.
5 (herein "ACSI") and its agents and employees in such a manner as to allow the acts and
6 omissions on the part of ACSI to occur as described in (a) through (e), below, are grounds for the
7 suspension or revocation of the license and license rights of Respondent ARRIVAS as described
8 in (f), below, under the following provisions of the California Business and Professions Code
9 (herein "the Code") and/or Chapter 6, Title 10, California Code of Regulations (herein "the
10 Regulations"), as described in the Accusation:

11 (a) as to Paragraph 8 and Respondent ACSI under Section 10130 of the Code,
12 in conjunction with Section 10177(d) of the Code;

13 (b) as to Paragraph 9 and Respondent ACSI under Section 10145 of the Code
14 and Section 2832 of the Regulations, in conjunction with Section 10177(d) of the Code;

15 (c) as to Paragraph 10 and Respondent ACSI under Section 10148 of the Code,
16 in conjunction with Section 10177(d) of the Code;

17 (d) as to Paragraph 11 and Respondent ACSI under Section 10162 of the Code,
18 in conjunction with Section 10177(d) of the Code;

19 (e) as to Paragraph 12 and Respondent ACSI under Section 2715 of the
20 Regulations, in conjunction with Section 10177(d) of the Code; and,

21 (f) as to Paragraph 13 and Respondent ARRIVAS under Section 10177(g) and
22 (h) and 10159.2 of the Code, and Section 2725 of the Regulations, in conjunction with Section
23 10177(d) of the Code.

24 ORDER

25 All licenses and licensing rights of Respondent ARRIVAS under the Real Estate
26 Law are revoked; provided, however, a restricted real estate *salesperson* license shall be issued
27 to Respondent ARRIVAS pursuant to Section 10156.5 of the Code if, within 90 days from the

1 effective date of the Decision entered pursuant to this Order, Respondent ARRIVAS, prior to
2 and as a condition of the issuance of said restricted license makes application for the restricted
3 license and pays to the Department the appropriate fee therefor.

4 The restricted license issued to Respondent ARRIVAS shall be subject to all of
5 the provisions of Section 10156.7 of the Code and to the following limitations, conditions and
6 restrictions imposed under authority of Section 10156.6 of that Code:

7 1. The restricted license issued to Respondent ARRIVAS may be suspended
8 prior to hearing by Order of the Commissioner in the event of Respondent ARRIVAS' conviction
9 or plea of nolo contendere to a crime which is substantially related to Respondent ARRIVAS'
10 fitness or capacity as a real estate licensee.

11 2. The restricted license issued to Respondent ARRIVAS may be suspended
12 prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
13 Respondent ARRIVAS has violated provisions of the California Real Estate Law, the Subdivided
14 Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to the
15 restricted license.

16 3. Respondent ARRIVAS shall not be eligible to apply for the issuance of an
17 unrestricted real estate license or for the removal of any of the conditions, limitations or restrictions
18 of a restricted license until two (2) years have elapsed from the effective date of this Order.

19 4. Respondent ARRIVAS shall submit with any application for license under an
20 employing broker, or any application for transfer to a new employing broker, a statement signed
21 by the prospective employing real estate broker on a form approved by the Department of Real
22 Estate which shall certify:

23 (a) That the employing broker has read the Decision of the Commissioner
24 which granted the right to a restricted license; and,

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

1 5. Respondent ARRIVAS shall, within nine (9) months from the effective date
2 of the Order, present evidence satisfactory to the Commissioner that Respondent ARRIVAS
3 has, since the most recent issuance of an original or renewal real estate license, taken and
4 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
5 Real Estate Law for renewal of a real estate license. If Respondent ARRIVAS fails to satisfy
6 this condition, the Commissioner may order the suspension of the restricted license until
7 Respondent ARRIVAS presents such evidence. The Commissioner shall afford Respondent
8 ARRIVAS the opportunity for a hearing pursuant to the APA to present such evidence.

9 6. Respondent ARRIVAS shall, within six (6) months from the issuance of the
10 restricted license, take and pass the Professional Responsibility Examination administered by
11 the Department, including the payment of the appropriate examination fee. If Respondent
12 ARRIVAS fails to satisfy this condition, the Commissioner may order the suspension of the
13 restricted license until Respondent ARRIVAS passes the examination.

14
15 7-3-12
16 DATED

15 
16 MARY F. CLARKE, Counsel
17 DEPARTMENT OF REAL ESTATE

17 * * *

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

25 6/27/2012
26 DATED

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26 RODOLFO ARRIVAS
27 Respondent

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The foregoing Stipulation and Agreement in Settlement and Order is hereby
adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
August 21, 2012.

IT IS SO ORDERED July 31, 2012.

Real Estate Commissioner



By WAYNE S. BELL
Chief Counsel