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JUL - 2 2008
DEPARTMENT OF REAL ESTATE



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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

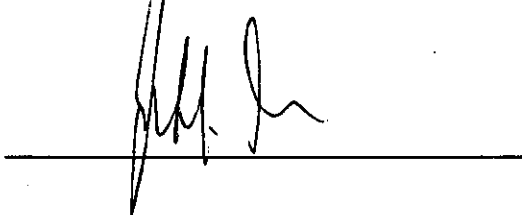
In the Matter of the Accusation of)	No. H-34204 LA
)	L-2007120675
HARRY NICHOLAS BUSH)	
and <u>ROSARIO GAMEZ</u> ,)	
)	
Respondents.)	

ORDER NUNC PRO TUNC MODIFYING STIPULATION AND AGREEMENT

It having been called to the attention of the Real Estate Commissioner that there is an error in the Stipulation and Agreement dated April 8, 2008, effective May 12, 2007, and good cause appearing therefor, the effective date is amended to read May 12, 2008.

IT IS SO ORDERED _____ 6-24, 2008.

JEFF DAVIS
Real Estate Commissioner



1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013

4 Telephone: (213) 576-6982

FILED
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DEPARTMENT OF REAL ESTATE

By 

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-34204 LA
12)	L-2007120675
13)	
14	HARRY NICHOLAS BUSH)	<u>STIPULATION AND AGREEMENT</u>
15	and <u>ROSARIO GAMEZ,</u>)	
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18 It is hereby stipulated by and between ROSARIO GAMEZ
19 (sometimes referred to as Respondent) and her attorney, Frank M.
20 Buda, and the Complainant, acting by and through James R. Peel,
21 Counsel for the Department of Real Estate, as follows for the
22 purpose of settling and disposing of the Accusation filed on
23 August 17, 2007, in this matter.

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

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

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

9 3. On September 12, 2007, Respondent filed a Notice
10 of Defense pursuant to Section 11506 of the Government Code for
11 the purpose of requesting a hearing on the allegations in the
12 Accusation. Respondent hereby freely and voluntarily withdraws
13 said Notice of Defense. Respondent acknowledge that she
14 understands that by withdrawing said Notices of Defense she will
15 thereby waive her right to require the Commissioner to prove the
16 allegations in the Accusation at a contested hearing held in
17 accordance with the provisions of the APA and that she will
18 waive other rights afforded to her in connection with the
19 hearing, such as the right to present evidence in defense of the
20 allegations in the Accusation and the right to cross-examine
21 witnesses.
22

23 4. This Stipulation is based on the factual
24 allegations contained in the Accusation filed in this
25 proceeding. In the interest of expedience and economy,
26 Respondent chooses not to contest these factual allegations, but
27 to remain silent and understands that, as a result thereof,

1 these factual statements, will serve as a prima facie basis for
2 the disciplinary action stipulated to herein. The Real Estate
3 Commissioner shall not be required to provide further evidence
4 to prove such allegations.

5 5. This Stipulation and Respondent's decision not to
6 contest the Accusation is made for the purpose of reaching an
7 agreed disposition of this proceeding and is expressly limited
8 to this proceeding and any other proceeding or case in which the
9 Department of Real Estate ("Department"), the state or federal
10 government, or an agency of this state, another state or the
11 federal government is involved.

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

23 7. The Order or any subsequent Order of the Real
24 Estate Commissioner made pursuant to this Stipulation shall not
25 constitute an estoppel, merger or bar to any further
26 administrative or civil proceedings by the Department of Real
27 Estate with respect to any conduct which was not specifically

1 alleged to be causes for accusation in this proceeding.

2 DETERMINATION OF ISSUES

3 By reason of the foregoing stipulations and waivers
4 and solely for the purpose of settlement of the pending
5 Accusation without a hearing, it is stipulated and agreed that
6 the following determination of issues shall be made:

7 The conduct, acts and/or omissions of Respondent
8 ROSARIO GAMEZ, as set forth in the Accusation, constitutes cause
9 for the suspension or revocation of all of the real estate
10 licenses and license rights of Respondent under the provisions
11 of Section 10177(d) of the Business and Professions Code
12 ("Code") for violation of Code Section 10130.

13 ORDER

14 I

15 The license and licensing rights of Respondent ROSARIO
16 GAMEZ under the Real Estate Law are suspended for a period of
17 one hundred days (120) days from the effective date of this
18 Decision; provided, however, that sixty (60) days of said
19 suspension shall be stayed for two (2) years upon the following
20 terms and conditions:

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

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

9 3. Provided, however, the remaining sixty (60) days
10 of said one hundred twenty (120) day suspension shall be stayed
11 upon condition that:

12 a. Respondent pays a monetary penalty pursuant to
13 Section 10175.2 of the Business and Professions Code at the rate
14 of \$166.66 for each day of the suspension for a total monetary
15 penalty of \$10,000.

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

21 c. No further cause for disciplinary action
22 against the real estate licenses of Respondent occurs within two
23 (2) years from the effective date of the Decision in this
24 matter.
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1 d. If Respondent fails to pay the monetary
2 penalty in accordance with the terms and conditions of the
3 Decision, the Commissioner may, without a hearing, order the
4 immediate execution of all or any part of the stayed suspension
5 in which event the Respondent shall not be entitled to any
6 repayment nor credit, prorated or otherwise, for money paid to
7 the Department under the terms of this Decision.

8 e. If Respondent pays the monetary penalty and if
9 no further cause for disciplinary action against the real estate
10 license of Respondent occurs within two (2) years from the
11 effective date of the Decision, the stay hereby granted shall
12 become permanent.
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16 DATED: Feb. 21, 2008

James R. Peel
JAMES R. PEEL, Counsel for the
Department of Real Estate

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* * *

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2 I have read the Stipulation and Agreement, have
3 discussed it with my attorney, and its terms are understood by
4 me and are agreeable and acceptable to me. I understand that I
5 am waiving rights given to me by the California Administrative
6 Procedure Act (including but not limited to Sections 11506,
7 11508, 11509 and 11513 of the Government Code), and I willingly,
8 intelligently and voluntarily waive those rights, including the
9 right of requiring the Commissioner to prove the allegations in
10 the Accusation at a hearing at which I would have the right to
11 cross-examine witnesses against me and to present evidence in
12 defense and mitigation of the charges.
13

14 Respondent can signify acceptance and approval of the
15 terms and conditions of this Stipulation and Agreement by faxing
16 a copy of the signature page, as actually signed by Respondent,
17 to the Department at the following telephone/fax number:
18 (213) 576-6917. Respondent agrees, acknowledges and understands
19 that by electronically sending to the Department a fax copy of
20 his or her actual signature as it appears on the Stipulation and
21 Agreement, that receipt of the faxed copy by the Department
22 shall be as binding on Respondent as if the Department had
23 received the original signed Stipulation and Agreement.
24

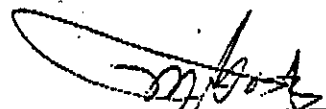
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1 Further, if the Respondent is represented, the
 2 Respondent's Counsel can signify his or her agreement to the
 3 terms and conditions of the Stipulation and Agreement by
 4 submitting that signature via fax.

5
 6
 7 DATED: Feb 8/08



 ROSARIO GAMEZ
 Respondent

8
 9
 10 DATED: 2-8-08



 FRANK M. BUDA
 Counsel for Respondent

11 * * *

12
 13 The foregoing Stipulation and Agreement is hereby
 14 adopted as my Decision and Order in this matter, and shall
 15 become effective at 12 o'clock noon on _____

16 IT IS SO ORDERED _____

17
 18 JEFF DAVI
 Real Estate Commissioner

19
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 21 _____

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Further, if the Respondent is represented, the Respondent's Counsel can signify his or her agreement to the terms and conditions of the Stipulation and Agreement by submitting that signature via fax.

DATED: _____

ROSARIO GAMEZ
Respondent

DATED: _____

FRANK M. BUDA
Counsel for Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision and Order in this matter, and shall become effective at 12 o'clock noon on May 12, 2007.

IT IS SO ORDERED _____
4/11/07

JEFF DAVI
Real Estate Commissioner

[Handwritten Signature]

*Should be 2008
amended doc
coming in.*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of)

NO. H-34204 LA

HARRY NICHOLAS BUSH,
and ROSARIO GAMEZ,

Respondents.)

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 February 21, 2008, 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.

FINDINGS OF FACT

I

On June 20, 2007, Janice A. Waddell made the Accusation in her 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 August 17, 2007.

On February 21, 2008, no Notice of Defense having been filed herein within the time prescribed by Section 11506 of the Government Code, Respondent's default was entered herein.

II

HARRY NICHOLAS BUSH (hereinafter referred to as Respondent) is presently licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code (hereinafter Code), as a real estate broker.

III

At all times mentioned herein, Respondent ROSARIO GAMEZ was licensed as a real estate salesperson. The license of Respondent ROSARIO GAMEZ expired July 26, 2004. The license was renewed June 29, 2005.

IV

At all times material herein, Respondent BUSH engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) of the Code, including soliciting buyers and sellers and negotiating the sale of real property.

V

Respondent BUSH violated Section 10137 of the Code by employing Respondent GAMEZ to engage in activities as specified in Paragraph IV above during the time her real estate license was expired.

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DETERMINATION OF ISSUES

I

Cause for disciplinary action against Respondent HARRY NICHOLAS BUSH exists pursuant to Business and Professions Code Sections 10137 and 10177(d).

II

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

ORDER

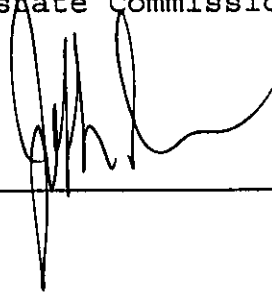
All licenses and license rights of Respondent HARRY NICHOLAS BUSH under the provisions of Part I of Division 4 of the Business and Professions Code are revoked.

This Decision shall become effective at 12 o'clock noon on May 12, 2008.

DATED: _____

4-8-08

JEFF DAVI
Real Estate Commissioner



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Kag

FILED
AUG 17 2007
DEPARTMENT OF REAL ESTATE
[Signature]

1 JAMES R. PEEL, Counsel (SBN 47055)
Department of Real Estate
2 320 West Fourth Street, Suite 350
Los Angeles, CA 90013-1105
3
4 Telephone: (213) 576-6982
-or- (213) 576-6913 (Direct)

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-34204 LA
12)
13 HARRY NICHOLAS BUSH)
and ROSARIO GAMEZ,)
14)
15)
16 Respondents.)
17)

18 The Complainant, Janice A. Waddell, a Deputy Real
19 Estate Commissioner of the State of California, for cause of
20 accusation against HARRY NICHOLAS BUSH and ROSARIO GAMEZ, alleges
21 as follows:

22 I

23 The Complainant, Janice A. Waddell, acting in her
24 official capacity as a Deputy Real Estate Commissioner of the
25 State of California, makes this Accusation against HARRY NICHOLAS
26 BUSH and ROSARIO GAMEZ.

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II

HARRY NICHOLAS BUSH and ROSARIO GAMEZ (hereinafter referred to as "Respondents"), are presently licensed and/or have license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) (hereinafter Code).

III

At all times mentioned herein, Respondent HARRY NICHOLAS BUSH was licensed as a real estate broker, and Respondent ROSARIO GAMEZ was licensed as a real estate salesperson. The license of Respondent ROSARIO GAMEZ expired July 26, 2004. The license was renewed June 29, 2005.

IV

At all times material herein, Respondent BUSH engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California, within the meaning of Section 10131(a) of the Code, including soliciting buyers and sellers and negotiating the sale of real property.

V

Respondent BUSH violated Section 10137 of the Code by employing Respondent GAMEZ to engage in activities as specified in Paragraph IV above during the time her real estate license was expired.

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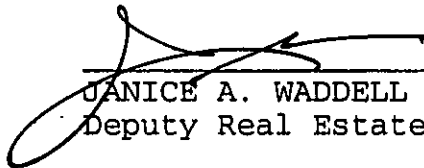
The conduct of Respondent BUSH, as alleged above, subjects his real estate licenses and license rights to suspension or revocation pursuant to sections 10137 and/or 10177(g) and 10177(d) of the Code.

VII

The conduct of Respondent GAMEZ is in violation of Code section 10130 and subjects her real estate license and license rights to suspension or revocation pursuant to sections 10177(d) and 10177(j) and/or 10177(g) of the Code.

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

Dated at Los Angeles, California
this 20 day of June, 2007.


JANICE A. WADDELL
Deputy Real Estate Commissioner

cc: Harry Nicholas Bush
Rosario Gamez
Janice A. Waddell
Sacto.