

1 Department of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, CA. 90013-1105

3 (213) 576-6982

FILED

OCT 20 2010

DEPARTMENT OF REAL ESTATE
BY: *R. Mederholt*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-35379 LA
12 CESAR GARCIA,)
13)
14 Respondent.) STIPULATION AND AGREEMENT

15
16 It is hereby stipulated by and between CESAR GARCIA,
17 (sometimes referred to as Respondent), and the Complainant,
18 acting by and through Shari Sveningson, Counsel for the
19 Department of Real Estate, as follows for the purpose of
20 settling and disposing of the Accusation filed on October 14,
21 2008, in this matter.

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

1 Stipulation and Agreement.

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

6 3. Respondent did not file a Notice of Defense,
7 pursuant to Section 11506 of the Government Code for the purpose
8 of requesting a hearing on the allegations in the Accusation.
9 Respondent acknowledges that he understands he will thereby waive
10 his right to require the Commissioner to prove the allegations in
11 the Accusation at a contested hearing held in accordance with the
12 provisions of the APA and that he will waive other rights
13 afforded to him in connection with the hearing, such as the right
14 to present evidence in defense of the allegations in the
15 Accusation and the right to cross-examine witnesses.

16 4. Respondent, pursuant to the limitations set forth
17 below, hereby admits that the factual allegations set forth in
18 the Accusation filed in this proceeding are true and correct and
19 the Real Estate Commissioner shall not be required to provide
20 further evidence of such allegations.

21 5. It is understood by the parties that the Real
22 Estate Commissioner may adopt the Stipulation and Agreement as
23 his decision in this matter, thereby imposing the penalty and
24 sanctions on Respondent's real estate licenses and license rights
25 as set forth in the below "Order". In the event that the
26 Commissioner in his discretion does not adopt the Stipulation and
27

1 Agreement, it shall be void and of no effect, and Respondent
2 shall retain the right to a hearing and proceeding on the
3 Accusation under all the provisions of the APA and shall not be
4 bound by any admission or waiver made herein.

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

12 DETERMINATION OF ISSUES

13 By reason of the foregoing stipulations, admissions
14 and waivers and solely for the purpose of settlement of the
15 pending Accusation without a hearing, it is stipulated and
16 agreed that the following determination of issues shall be made:

17 The conduct of Respondent, as described in the
18 Accusation, are grounds for the suspension or revocation of all
19 of the real estate licenses and license rights of Respondent
20 under the provisions of Sections 490 and 10177(b) of the
21 Business and Professions Code.

22 ///
23 ///
24 ///
25 ///
26 ///
27 ///
28

1 3. Respondent shall not be eligible to apply for
2 issuance of and unrestricted real estate salesperson license nor
3 for the removal of any of the conditions, limitations or
4 restrictions of a restricted license until two (2) years have
5 elapsed from the effective date of this Decision.

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

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

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

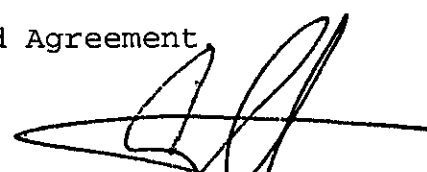
18 5. Respondent shall, within nine (9) months from the
19 effective date of this Decision, present evidence satisfactory
20 to the Commissioner that Respondent has, since the most recent
21 issuance of an original or renewal real estate salesperson
22 license, taken and successfully completed the continuing
23 education requirements of Article 2.5 of Chapter 3 of the Real
24 Estate Law for renewal of a real estate salesperson license. If
25 Respondent fails to satisfy this condition, the Commissioner may
26 order the suspension of the restricted license until Respondent
27

1 presents such evidence. The Commissioner shall afford
2 Respondent the opportunity for a hearing pursuant to the APA to
3 present such evidence.

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

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

25
26 DATED: 9-7-10



CESAR GARCIA
Respondent

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become effective
at 12 o'clock noon on NOV - 9 2010.

IT IS SO ORDERED 10/14/2010

JEFF DAVI
Real Estate Commissioner



BY: Barbara J. Bigby
Chief Deputy Commissioner

2.

1 Respondent is presently licensed and/or has license
2 rights under the Real Estate Law, Part 1 of Division 4 of the
3 California Business and Professions Code ("Code"), as a real
4 estate salesperson.
5

6 3.

7 (CRIMINAL CONVICTION)

8 On or about January 10, 2007, in the Superior Court of
9 California, County of Los Angeles, in case no. 6AH04284,
10 Respondent was convicted of violating Vehicle Code 20002(A) (Hit
11 & Run: Property Damage), a misdemeanor. This crime involves
12 moral turpitude, which bears a substantial relationship under
13 Section 2910, Title 10, Chapter 6, California Code of
14 Regulations to the qualifications, functions or duties of a real
15 estate licensee.
16

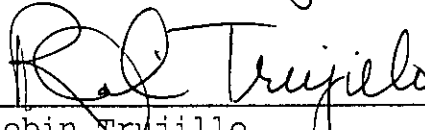
17 4.

18 The crime of which Respondent was convicted, as
19 described in Paragraph 3 above, constitutes cause under Sections
20 490 and 10177(b) of the Code for the suspension or revocation of
21 the license and license rights of Respondent under the Real
22 Estate Law.

23 WHEREFORE, Complainant prays that a hearing be
24 conducted on the allegations of this Accusation and that upon
25 proof thereof, a decision be rendered imposing disciplinary
26 action against all the licenses and license rights of
27 Respondent, CESAR GARCIA, under the Real Estate Law (Part 1 of

1 Division 4 of the Business and Professions Code) and for such
2 other and further relief as may be proper under other applicable
3 provisions of law.

4 Dated at Los Angeles, California *this 8 day of October 2008.*

5 
6 _____
7 Robin Trujillo
8 Deputy Real Estate Commissioner
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

25 cc: CESAR GARCIA
26 Gene Arnold Kooiman
27 Robin Trujillo
Sacto.