

1 Department of Real Estate  
2 320 W. 4<sup>TH</sup> Street, Suite 350  
3 Los Angeles, CA 60013-1105

4 Telephone: (213) 576-6982

FILED

JAN 03 2013

DEPARTMENT OF REAL ESTATE

BY: 

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

\* \* \*

10 )  
11 In the Matter of the Accusation of )

No. H-37670 LA  
L-2011120954

12 )  
13 THE MONTCLAIR INVESTMENT GROUP )  
14 INC. T M I GROUP INC. and )

STIPULATION  
AND  
AGREEMENT

15 )  
16 JOHN VALLADOLID, individually )  
17 and as designated officer of The )  
18 Montclair Investment Group, Inc. )  
and doing business as Real Estate )  
Investment & Finance and )  
Valladolid Realty )

Respondents. )

19 It is hereby stipulated by and between Respondent  
20 JOHN VALLADOLID ("VALLADOLID"), individually and as designated  
21 officer of The Montclair Investment Group, Inc. and the  
22 Complainant, acting by and through Julie L. To, Counsel for the  
23 Department of Real Estate, as follows for the purpose of settling  
24 and disposing of the Accusation ("Accusation") filed on November  
25 14, 2011, in this matter:

26 1. All issues which were to be contested and all  
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1 evidence which was to be presented by Complainant and Respondent  
2 at a formal hearing on the Accusation, which hearing was to be  
3 held in accordance with the provisions of the Administrative  
4 Procedure Act ("APA"), shall instead and in place thereof be  
5 submitted solely on the basis of the provisions of this  
6 Stipulation and Agreement ("Stipulation").

7           2. Respondent has received, read and understands the  
8 Statement to Respondent, the Discovery Provisions of the APA and  
9 the Accusation filed by the Department of Real Estate in this  
10 proceeding.

11           3. Respondent filed a Notice of Defense pursuant to  
12 Section 11506 of the Government Code for the purpose of  
13 requesting a hearing on the allegations in the Accusation.  
14 Respondent hereby freely and voluntarily withdraws said Notice of  
15 Defense. Respondent acknowledges that he understands that by  
16 withdrawing said Notice of Defense he thereby waives his right to  
17 require the Commissioner to prove the allegations in the  
18 Accusation at a contested hearing held in accordance with the  
19 provisions of the APA and that he will waive other rights  
20 afforded to him in connection with the hearing such as the right  
21 to present evidence in his defense and the right to cross-examine  
22 witnesses.  
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24           4. This Stipulation is based on the factual  
25 allegations contained in the Accusation. In the interest of  
26 expedience and economy, Respondent chooses not to contest these  
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1 allegations, but to remain silent and understand that, as a  
2 result thereof, these factual allegations, without being admitted  
3 or denied, will serve as a prima facie basis for the disciplinary  
4 action stipulated to herein. The Real Estate Commissioner shall  
5 not be required to provide further evidence to prove said factual  
6 allegations.

7 5. This Stipulation is made for the purpose of  
8 reaching an agreed disposition of this proceeding and is  
9 expressly limited to this proceeding and any other proceeding or  
10 case in which the Department of Real Estate ("Department"), or  
11 another licensing agency of this state, another state or if the  
12 federal government is involved, and otherwise shall not be  
13 admissible in any other criminal or civil proceeding.

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

24 7. The Order or any subsequent Order of the Real  
25 Estate Commissioner made pursuant to this Stipulation shall not  
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1 constitute an estoppel, merger or bar to any further  
2 administrative or civil proceedings by the Department of Real  
3 Estate with respect to any matters which were not specifically  
4 alleged to be causes for accusation in this proceeding.

5 8. Respondent understands that by agreeing to this  
6 Stipulation, Respondent agrees to pay, pursuant to Business and  
7 Professions Code Section 10148, the cost of the original audit  
8 which led to this disciplinary action. The amount of said cost is  
9 \$5,610.00.

10 9. Respondent has received, read, and understands the  
11 "Notice Concerning Costs of Subsequent Audit." Respondent  
12 further understands that by agreeing to this Stipulation, the  
13 findings set forth below in the Determination of Issues become  
14 final, and the Commissioner may charge Respondent for the cost of  
15 any subsequent audit conducted pursuant to Business and  
16 Professions Code Section 10148 to determine if the violations  
17 have been corrected. The maximum cost of the subsequent audit  
18 will not exceed \$5,610.00.  
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20 DETERMINATION OF ISSUES

21 By reason of the foregoing, it is stipulated and agreed  
22 that the following determination of issues shall be made:

23 I.

24 The conduct of Respondent JOHN VALLADOLI, as described  
25 in Paragraph 4, herein above, is in violation of Sections 10145,  
26 10146, 10161.8, 10236.4, and 10240 of the Business and  
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1 Professions Code ("Code") and Sections 2752, 2831.1, 2832, 2840,  
2 2840.1, and 2972 of Title 10, Chapter 6 of the California Code of  
3 Regulations ("Regulations") and is a basis for discipline of  
4 Respondent's license and license rights as a violation of the  
5 Real Estate Law pursuant to Code Sections 10177(d) and 10177(g)

6 II.

7 The conduct of JOHN VALLADOLID, as described in  
8 Paragraph 4, above, is in violation of Code Section 10159.2 and  
9 Regulation 2725 and is a basis for discipline of Respondent's  
10 licenses and license rights as a violation of the Real Estate Law  
11 pursuant to Code Section 10177(d), 10177(g), and 10177(h).

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2 ORDER

3 WHEREFORE, THE FOLLOWING ORDER is hereby made:

4 I.

5 The license and licensing rights of Respondent JOHN  
6 VALLADOLID, under the Real Estate Law, are suspended for a period  
7 of ninety (90) days from the effective date of this Decision:

8 A. Provided, however, that if Respondent requests, the  
9 initial thirty (30) days of said suspension (or a portion  
10 thereof) shall be stayed for two (2) years upon condition that:

11 1. Respondent pays a monetary penalty pursuant to  
12 Section 10175.2 of the Business and Professions Code at the rate  
13 of \$100.00 per day for each day of the suspension for a monetary  
14 penalty of \$3,000.00.

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

19 3. No further cause for disciplinary action against  
20 the real estate license of Respondent occur within two (2) years  
21 from the effective date of the Decision in this matter.

22 4. If Respondent fails to pay the monetary penalty in  
23 accordance with the terms of the Decision, the Commissioner may,  
24 without a hearing, order the immediate execution of all or any  
25 part of the stayed suspension, in which event the Respondent  
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1 shall not be entitled to any repayment nor credit, prorated or  
2 otherwise, for money paid to the Department under the terms of  
3 this Decision.

4 5. If Respondent pays the monetary penalty and if no  
5 further cause for disciplinary action against the real estate  
6 licenses of Respondents occurs within two (2) years from the  
7 effective date of the Decision, the stay hereby granted shall  
8 become permanent.

9 B. The remaining sixty (60) days of the ninety (90) day  
10 suspension shall be stayed for two (2) years upon the following  
11 terms and conditions:

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

15 2. That no final subsequent determination be made  
16 after hearing or upon stipulation, that cause for disciplinary  
17 action occurred within two (2) years from the effective date of  
18 this Decision. Should such a determination be made, the  
19 Commissioner may, in the Commissioner's discretion, vacate and  
20 set aside the stay order and reimpose all or a portion of the  
21 stayed suspension. Should no such determination be made, the  
22 stay imposed herein shall become permanent.

24 II.

25 Pursuant to Section 10148 of the Business and  
26 Professions Code, Respondent JOHN VALLADOLID shall pay the  
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1 Commissioner's reasonable cost for (a) the audit which led to  
2 this disciplinary action and (b) a subsequent audit to determine  
3 if Respondents are now in compliance with the Real Estate Law.  
4 The cost of the audit which led to this disciplinary action is  
5 \$5,610.00. In calculating the amount of the Commissioner's  
6 reasonable cost, the Commissioner may use the estimated average  
7 hourly salary for all persons performing audits of real estate  
8 brokers, and shall include an allocation for travel time to and  
9 from the auditor's place of work. Said amount for the prior and  
10 subsequent audits shall not exceed \$11,220.00.

11 Respondent JOHN VALLADOLID shall pay such cost within  
12 60 days of receiving an invoice from the Commissioner detailing  
13 the activities performed during the audit and the amount of time  
14 spent performing those activities.

15 The Commissioner may suspend the licenses of Respondent  
16 pending a hearing held in accordance with Section 11500, et seq.,  
17 of the Government Code, if payment is not timely made as provided  
18 for herein, or as provided for in a subsequent agreement between  
19 said Respondents and the Commissioner. The suspension shall  
20 remain in effect until payment is made in full or until said  
21 Respondents enter into an agreement satisfactory to the  
22 Commissioner to provide for payment, or until a decision  
23 providing otherwise is adopted following a hearing held pursuant  
24 to this condition.

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III.

All licenses and licensing rights of Respondent JOHN VALLADOLID are indefinitely suspended unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and successfully completed the continuing education course on trust fund accounting and handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof of satisfaction of this requirement includes evidence that respondent has successfully completed the trust fund account and handling continuing education course within 120 days prior to the effective date of the Decision in this matter.


IV.

Respondent JOHN VALLADOLID shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the Commissioner may order the suspension of Respondent's license until Respondent presents such evidence. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

V.

Respondent JOHN VALLADOLID, shall within six (6) months from the effective date of the Decision herein, take and pass the Professional Responsibility Examination administered by the Department including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of Respondent's license until Respondent passes the examination. The Commissioner shall afford Respondent the opportunity for a hearing pursuant to the Administrative Procedure Act to present such evidence.

DATED: 11-13-12

  
JULIE L. TO, Counsel for  
Department of Real Estate

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EXECUTION OF THE STIPULATION

I have read the Stipulation. 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 (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), 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.

MAILING AND FACSIMILE

Respondent (1) shall mail the original signed signature page of the stipulation herein to Julie L. To: Attention: Legal Section, Department of Real Estate, 320 W. Fourth St., Suite 350, Los Angeles, California 90013-1105. Respondent (2) shall also facsimile a copy of signed signature page, to the Department at the following telephone/fax number: (213) 576-6917, Attention: Julie L. To.

A facsimile constitutes acceptance and approval of the terms and conditions of this stipulation. Respondent agrees, acknowledges and understands that by electronically sending to the Department a facsimile copy of Respondent's actual signature as it appears on the stipulation that receipt of the facsimile copy by the Department shall be as binding on Respondent as if the Department had received the original signed stipulation.

DATED: 12-6-2012

John Valladolid  
JOHN VALLADOLID, Respondent,  
individually and as designated  
officer of The Montclair Investment  
Group Inc.

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The foregoing Stipulation and Agreement is hereby  
adopted as my Decision as to Respondents JOHN VALLADOLID,  
individually and as designated officer of The Montclair  
Investment Group Inc. and doing business as Real Estate  
Investment & Finance and Valladolid Realty, and shall become  
effective at 12 o'clock noon on FEB 01 2013, 2013.

IT IS SO ORDERED 12/27, 2012.

Real Estate Commissioner

  
By WAYNE S. BELL  
Chief Counsel