

1 Department of Real Estate  
2 320 W. 4th Street, Suite 350  
3 Los Angeles, CA 90013-1105  
4 Telephone: (213) 576-6982

**FILED**  
**OCT 11 2018**  
**DEPT. OF REAL ESTATE**  
By 

5  
6  
7  
8 **BEFORE THE DEPARTMENT OF REAL ESTATE**  
9 **STATE OF CALIFORNIA**

10 \* \* \*

11 In the Matter of the Accusation of

12 EXCEL FUNDING REAL ESTATE  
13 SERVICES, INC, JEROLD ANTHONY  
14 SAUNDERS, individually and as designated  
15 officer of Excel Funding Real Estate Services, Inc.,  
16 and VICTOR MANUEL GUTIERREZ,

17 Respondent.

No. H-40950 LA  
OAH No. 2018040078

STIPULATION AND AGREEMENT

As to Respondent Victor Manuel  
Gutierrez only

18 It is hereby stipulated by and between Respondent VICTOR MANUEL  
19 GUTIERREZ (sometimes referred to as "Respondent"), acting by and through his attorney,  
20 Byron M. Johnson, Esq., and the Complainant, acting by and through Judith B. Vasan, Counsel  
21 for the Department of Real Estate, as follows for the purpose of settling and disposing of the  
22 Accusation ("Accusation") filed on February 26, 2018, in this matter:

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

STIPULATION AND AGREEMENT

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

4           3. On March 12, 2018, Respondent filed a Notice of Defense pursuant to Section  
5 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the  
6 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.  
7 Respondent acknowledges that he understands that by withdrawing said Notice of Defense  
8 Respondent thereby waives his right to require the Commissioner to prove the allegations in the  
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that  
10 Respondent will waive other rights afforded to him in connection with the hearing such as the  
11 right to present evidence in their defense, and the right to cross-examine witnesses.

12           4. Respondent, pursuant to the limitations set forth below, hereby admits that the  
13 allegations as set forth in the Accusation, in Case No. H-40950 LA, as to Respondent are true  
14 and correct and the Real Estate Commissioner shall not be required to provide further evidence  
15 of such allegations.

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

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

27           7. Respondent understands that by agreeing to this Stipulation, Respondent

1 agrees to pay, jointly and severally with Respondents Excel Funding Real Estate Services, Inc  
2 and Jerold Anthony Saunders, pursuant to Business and Professions Code ("Code") Section  
3 10148, the costs of the audit which led to this disciplinary action. The amount of said costs is  
4 \$5,646.04.

5 DETERMINATION OF ISSUES

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

8 The conduct, acts or omissions of Respondent VICTOR MANUEL GUTIERREZ,  
9 as set forth in the Accusation, are in violation of Code section 10145(c) and are a basis for  
10 discipline of Respondent VICTOR MANUEL GUTIERREZ' licenses, license rights, and license  
11 endorsement as violations of the Real Estate Law, Part 1 of Division 4 of the Code, pursuant to  
12 Code sections 10177(d) and 10177(g).

13 ORDER

14 WHEREFORE, THE FOLLOWING ORDER is hereby made:

15 I.

16 All licenses and licensing rights of Respondent VICTOR MANUEL  
17 GUTIERREZ under the Real Estate Law are revoked; provided, however, a restricted real estate  
18 broker license shall be issued to Respondent pursuant to Section 10156.5 of the Business and  
19 Professions Code if Respondent makes application therefor and pays to the Department of Real  
20 Estate the appropriate fee for the restricted license within 90 days from the effective date of this  
21 Decision. The restricted license issued to Respondent shall be subject to all of the provisions of  
22 Section 10156.7 of the Business and Professions Code and to the following limitations,  
23 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

24 1. The restricted license issued to Respondent may be suspended prior to hearing  
25 by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of  
26 nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a  
27 real estate licensee.



1 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
2 Decision and Order.

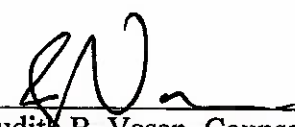
3 IV.

4 Respondent shall, within six (6) months from the effective date of this Decision,  
5 take and pass the Professional Responsibility Examination administered by the Department  
6 including the payment of the appropriate examination fee. If Respondent fails to satisfy this  
7 condition, Respondent's real estate license shall automatically be suspended until Respondent  
8 passes the examination.

9 V.

10 Respondent shall, within nine (9) months from the effective date of this Decision  
11 and Order, present evidence satisfactory to the Commissioner that Respondent has, since the  
12 most recent issuance of an original or renewal real estate license, taken and successfully  
13 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate  
14 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,  
15 Respondent's real estate license shall automatically be suspended until Respondent presents  
16 evidence satisfactory to the Commissioner of having taken and successfully completed the  
17 continuing education requirements. Proof of completion of the continuing education courses  
18 must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,  
19 Sacramento, CA 95813-7013.

20  
21  
22 DATED: 9-14-2018

  
\_\_\_\_\_  
Judith B. Vasan, Counsel for  
Department of Real Estate

23  
24 ///  
25 ///  
26 ///  
27 ///

1 \* \* \*

2 EXECUTION OF THE STIPULATION

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

10 Respondent shall mail the original signed signature page of the stipulation herein  
11 to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,  
12 Suite 350, Los Angeles, California 90013-1105.

13 In the event of time constraints before an administrative hearing, Respondent can  
14 signify acceptance and approval of the terms and conditions of this Stipulation and Agreement  
15 by emailing a scanned copy of the signature page, as actually signed by Respondent, to the  
16 Department counsel assigned to this case. Respondent agrees, acknowledges and understands  
17 that by electronically sending the Department a scan of Respondent's actual signature as it  
18 appears on the Stipulation and Agreement that receipt of the scan by the Department shall be  
19 binding on Respondent as if the Department had received the original signed Stipulation.

20 Respondent shall also mail the original signed signature page of this Stipulation to the  
21 Department counsel.

22 ///

23 ///

24 ///

25 ///


26 ///

27 ///

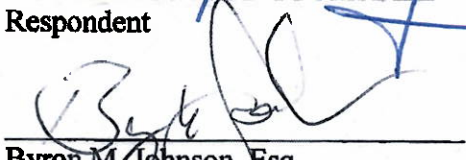
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

Respondent's signature below constitutes acceptance and approval of the terms and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and that this agreement is not subject to rescission or amendment at a later date except by a separate Decision and Order of the Real Estate Commissioner.

DATED: 09.14.2018

  
VICTOR MANUEL GUTIERREZ  
Respondent

DATED: 9/14/2018

  
Byron M. Johnson, Esq.  
Counsel for Respondent  
Approved as to Form

\*\*\*

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent VICTOR MANUEL GUTIERREZ and shall become effective at 12 o'clock noon on

\_\_\_\_\_  
IT IS SO ORDERED \_\_\_\_\_.

DANIEL J. SANDRI  
ACTING REAL ESTATE COMMISSIONER

\_\_\_\_\_



1 Respondent's signature below constitutes acceptance and approval of the terms  
2 and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by  
3 signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and  
4 that this agreement is not subject to rescission or amendment at a later date except by a separate  
5 Decision and Order of the Real Estate Commissioner.

6  
7 DATED: \_\_\_\_\_

8 VICTOR MANUEL GUTIERREZ  
9 Respondent

10 DATED: \_\_\_\_\_

11 Byron M. Johnson, Esq.  
12 Counsel for Respondent  
13 Approved as to Form

14 \* \* \*

15 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to  
16 Respondent VICTOR MANUEL GUTIERREZ and shall become effective at 12 o'clock noon on  
17 **OCT 31 2018**.

18 IT IS SO ORDERED October 5, 2018.

19 DANIEL J. SANDRI  
20 ACTING REAL ESTATE COMMISSIONER

21 