

1 Department of Real Estate  
320 West 4th Street, Ste. 350  
2 Los Angeles, California 90013-1105  
Telephone: (213) 576-6982

**FILED**

OCT 27 2020

DEPT. OF REAL ESTATE

By Jai Ja

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 \* \* \*

10 In the Matter of the Accusation of )  
WEST CAPITAL CORPORATION, )  
11 and )  
12 MICHAEL GIANNCARLO GALVEZ, )  
13 Respondents. )

No. H-41567 LA  
STIPULATION  
AND  
AGREEMENT

15 It is hereby stipulated by and between Respondent MICHAEL GIANNCARLO  
16 GALVEZ ("GALVEZ") and the Complainant, acting by and through Julie L. To, Counsel for  
17 the Department of Real Estate ("Department" or "DRE"), as follows for the purpose of settling  
18 and disposing of the Accusation ("Accusation") filed on December 27, 2019, in Case No.  
19 H-41567 LA, 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 at a formal hearing on the Accusation, which hearing  
22 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),  
23 shall instead and in place thereof be submitted solely on the basis of the provisions of this  
Stipulation and Agreement ("Stipulation").

24 H-41567 LA: STIPULATION AND AGREEMENT – MICHAEL GIANNCARLO GALVEZ

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

5 3. On January 15, 2020, Respondent timely filed a Notice of Defense pursuant to  
6 Section 11506 of the Government Code for the purpose of requesting a hearing on the  
7 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice  
8 of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of  
9 Defense he thereby waives his right to require the Commissioner to prove the allegations in the  
10 Accusation at a contested hearing held in accordance with the provisions of the APA and that he  
11 will waive other rights afforded to him in connection with the hearing such as the right to  
12 present evidence in his defense and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the Accusation.  
14 In the interest of expedience and economy, Respondent chooses not to contest these allegations,  
15 but to remain silent, and understands that, as a result thereof, these factual allegations, without  
16 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated  
17 to herein. The Real Estate Commissioner shall not be required to provide further evidence to  
18 prove said factual allegations.

19 5. This Stipulation is made for the purpose of reaching an agreed disposition of  
20 this proceeding and is expressly limited to this proceeding and any other proceeding or case in  
21 which the Department or another licensing agency of this state, another state, or if the federal  
22 government is involved, and otherwise shall not be admissible in any other criminal or civil  
23 proceeding.

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2 6. It is understood by the parties that the Real Estate Commissioner may adopt  
3 this Stipulation as the Commissioner's Decision in this matter, thereby imposing the penalty and  
4 sanctions on Respondent's real estate license and license rights as set forth in below "Order." In  
5 the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement,  
6 the Stipulation shall be void and of no effect and Respondent shall retain the right to a hearing  
7 and proceeding on the Accusation under the provisions of the APA and shall not be bound by  
any admission or waiver made herein.

8 7. The Order or any subsequent Order of the Real Estate Commissioner made  
9 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further  
10 administrative or civil proceedings by the Department of Real Estate with respect to any matters  
11 which were not specifically alleged to be causes for Accusation in this proceeding but do  
12 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusation  
against Respondent herein.

13 8. Respondent understands that by agreeing to this Stipulation, Respondent  
14 agrees to pay, pursuant to Business and Professions Code ("Code") Section 10148, the cost of  
15 the audit which resulted in the determination that Respondent committed the violations found in  
16 the Determination of Issues. The amount of said costs for the original audit (LA170173) is  
17 \$2,720.34. Respondent agrees to pay, pursuant to Code Section 10148, the amount \$2,720.34  
for the cost of Audit No. LA170173.

18 9. Respondent has received, read, and understands the "Notice Concerning Costs  
19 of Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the  
20 findings set forth below in the Determination of Issues become final, and the Commissioner may  
21 charge Respondent for the cost of any subsequent audit conducted pursuant to Code Section  
22 10148 to determine if the violations have been corrected. The maximum cost of the follow-up  
23 audit will not exceed one-hundred twenty-five percent (125%) of the cost of the original audit; in

1 the instant case, the cost of the original audit is \$2,720.34 and the maximum cost of the follow-  
2 up audit will not exceed \$3,400.43. Therefore, Respondent may be charged a maximum of  
3 \$3,400.43 in the event of a subsequent audit.

4 10. Respondent understands that by agreeing to this Stipulation, Respondent  
5 agrees to pay, pursuant to Code Section 10106, the Commissioner's cost of the investigation and  
6 enforcement which resulted in the determination that Respondent committed the violations  
7 found in the Determination of Issues. The amount of said investigation and enforcement costs is  
8 \$1,082.52 (comprised of \$552.97 in investigation costs plus \$529.55 in enforcement costs);  
9 therefore, Respondent agrees to pay, pursuant to Code Section 10106, the amount \$1,082.52 for  
10 the Commissioner's investigation and enforcement costs.

11 DETERMINATION OF ISSUES

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

15 The conduct, acts or omissions of Respondent GALVEZ, as described in  
16 Paragraph 4, herein above, are in violation of: Code Sections 10130 and 10137; Code Sections  
17 10159.5 and Title 10, Chapter 6, California Code of Regulations ("Regulation") 2731; Code  
18 Section 10177(h) and Regulation 2725, and are bases for the suspension or revocation of the  
19 license and license rights of Respondent GALVEZ as violations of the Real Estate Law pursuant  
20 to Code Sections 10177(d) and 10177(g).

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ORDER

WHEREFORE, THE FOLLOWING ORDER is hereby made:

I.

All licenses and licensing rights of Respondent MICHAEL GIANNCARLO GALVEZ under the Real Estate Law are revoked; provided, however: a restricted real estate broker license shall be issued to Respondent GALVEZ, to be issued pursuant to Section 10156.5 of the Code if Respondent GALVEZ makes respective application therefore and pays to the Department the appropriate fee for the restricted license within ninety (90) days from the effective date of this Decision and Order. The restricted license issued to Respondent GALVEZ shall be subject to all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of the Code:

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

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

3. Respondent GALVEZ shall not be eligible to apply for the issuance of an unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions of this restricted license until three (3) years have elapsed from the effective date of this Decision and Order.

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4. During the period of time that Respondent GALVEZ is the holder of a restricted license issued by the Department, Respondent shall not be permitted to be the designated officer of record for any real estate corporation.

5. Respondent GALVEZ shall, within twelve (12) months from the effective date of this Decision and Order, 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, Respondent's real estate license shall automatically be suspended until Respondent passes the examination.

6. Respondent GALVEZ shall, within twelve (12) months from the effective date of this Decision and Order, present evidence satisfactory to the 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, Respondent's real estate license shall automatically be suspended until Respondent presents evidence satisfactory to the Commissioner of having taken and successfully completed the continuing education requirements. Proof of completion of the continuing education courses must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

7. All license and licensing rights of Respondent GALVEZ are indefinitely suspended unless or until Respondent provides evidence satisfactory to the Commissioner or 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 these requirements includes evidence that Respondent has successfully completed the trust fund account and handling continuing education courses, no earlier than one hundred and twenty (120) days prior to the effective date

1 of the Decision and Order in this matter. Proof of completion of the trust fund accounting and  
2 handling course must be delivered to the Department of Real Estate, Flag Section at P.O. Box  
3 137013, Sacramento, CA 95813-7013.


4 8. All licenses and licensing rights of Respondent GALVEZ are indefinitely  
5 suspended unless or until Respondent pays the sum of \$1,082.52 for the Commissioner's  
6 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said  
7 payment shall be in the form of a cashier's check or certified check made payable to the  
8 Department of Real Estate. The investigation and enforcement costs must be delivered to the  
9 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013,  
10 prior to the effective date of this Decision and Order.

11 9. Pursuant to Section 10148 of the Code, Respondent GALVEZ shall pay the  
12 sum of \$2,720.34 for the Commissioner's cost of the audit (LA170173) which led to this  
13 disciplinary action. Respondent GALVEZ shall pay such cost within sixty (60) days of  
14 receiving an invoice therefore from the Commissioner. Payment of audit costs should not be  
15 made until Respondent receives the invoice. If Respondent fails to satisfy this condition in a  
16 timely manner as provided for herein, Respondent's real estate license shall automatically be  
17 suspended until payment is made in full, or until a decision providing otherwise is adopted  
18 following a hearing held pursuant to this condition.

19 10. Pursuant to Section 10148 of the Code, Respondent GALVEZ shall pay the  
20 Commissioner's reasonable cost, not to exceed \$3,400.43 [or, 125% of the cost of the original  
21 audit, LA170173], for a subsequent audit to determine if Respondent has corrected the violations  
22 found in the Determination of Issues. In calculating the amount of the Commissioner's  
23 reasonable cost, the Commissioner may use the estimated average hourly salary for all persons  
24 performing audits of real estate brokers, and shall include an allocation for travel time to and  
from the auditor's place of work. Respondent shall pay such cost within sixty (60) days of

1 receiving an invoice [for said subsequent audit] therefore from the Commissioner. Payment of  
2 the [subsequent] audit costs should not be made until Respondent receives the invoice. If  
3 Respondent fails to satisfy this condition in a timely manner as provided for herein,  
4 Respondent's real estate license shall automatically be suspended until payment is made in full,  
5 or until a decision providing otherwise is adopted following a hearing held pursuant to this  
6 condition.

7 DATED: 9-21-20

  
8 Julie L. To, Counsel for  
9 Department of Real Estate

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11 EXECUTION OF THE STIPULATION

12 I have read the Stipulation and Agreement. Its terms are understood by me and  
13 are agreeable and acceptable to me. I understand that I am waiving rights given to me by the  
14 California Administrative Procedure Act (including but not limited to Sections 11506, 11508,  
15 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive  
16 those rights, including the right of requiring the Commissioner to prove the allegations in the  
17 Accusation at a hearing at which I would have the right to cross-examine witnesses against me  
18 and to present evidence in defense and mitigation of the charges.

18 MAILING AND FACSIMILE

19 Respondent can signify acceptance and approval of the terms and conditions of  
20 this Stipulation and Agreement by sending a hard copy of the original signed signature page of  
21 the Stipulation herein to Julie L. To, Legal Section, Department of Real Estate, 320 W. Fourth  
22 St., Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an  
23 administrative hearing, Respondent can signify acceptance and approval of the terms and  
24 conditions of this Stipulation and Agreement by e-mailing a scanned copy of the signature page,



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as actually signed by Respondent, to the Department counsel assigned to this case. Respondent agrees, acknowledges, and understands that by electronically sending to the Department a scan of Respondent's actual signature as it appears on the Stipulation and Agreement, that receipt of the scan by the Department shall be binding on Respondent as if the Department had received the original signed Stipulation and Agreement.

DATED: 9/17/2020

Michael Galvez  
MICHAEL GIANNCARLO GALVEZ,  
Respondent

\* \* \*

The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent MICHAEL GIANNCARLO GALVEZ, and shall become effective at 12 o'clock noon on NOV 26 2020, 2020.

IT IS SO ORDERED 10.22.20, 2020.

REAL ESTATE COMMISSIONER

Douglas R. McCauley  
DOUGLAS R. McCAULEY