

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
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FILED
JUN 27 2007

DEPARTMENT OF REAL ESTATE

By Anne Sharon

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

9 * * *

10
11 In the Matter of the Accusation of)
12 ROSARIO GONZALEZ,)
13 Respondent.)

No. H-2008 FR

STIPULATION AND
AGREEMENT

14
15 It is hereby stipulated by and between ROSARIO
16 GONZALEZ (hereinafter Respondent) and the Complainant, acting
17 by and through Truly Sughrue, Counsel for the Department of
18 Real Estate, as follows for the purpose of settling and
19 disposing the Accusation filed on January 3, 2007 in this
20 matter:

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

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

4 3. Respondent filed a Notice of Defense pursuant to
5 Section 11505 of the Government Code for the purpose of
6 requesting a hearing on the allegations in the Accusation.
7 Respondent hereby freely and voluntarily withdraw said Notice of
8 Defense. Respondent acknowledge that she understands that by
9 withdrawing said Notice of Defense she will thereby waive her
10 right to require the Commissioner to prove the allegations in the
11 Accusation at a contested hearing held in accordance with the
12 provisions of the APA, and that she will waive other rights
13 afforded to her 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. This stipulation is based on the factual
17 allegations contained in the Accusation. In the interest of
18 expediency and economy, Respondent choose not to contest these
19 factual allegations, but to remain silent and understands that,
20 as a result thereof, these factual statements will serve as a
21 prima facie basis for the "Determination of Issues" and "Order"
22 set forth below. The Real Estate Commissioner shall not be
23 required to provide further evidence to prove such allegations.

24 5. This Stipulation and Respondents decision not to
25 contest the Accusation are made for the purpose of reaching an
26 agreed disposition of this proceeding and are expressly limited
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1 to this proceeding and any other proceeding or case in which the
2 Department of Real Estate (herein "the Department"), the state or
3 federal government, an agency of this state, or an agency of
4 another state is a party.

5 6. It is understood by the parties that the Real
6 Estate Commissioner may adopt the Stipulation and Agreement as
7 his decision in this matter thereby imposing the penalty and
8 sanctions on the real estate licenses and license rights of
9 Respondent as set forth in the below "Order". In the event that
10 the Commissioner in his discretion does not adopt the Stipulation
11 and Agreement, it shall be void and of no effect, and Respondents
12 shall retain the right to a hearing and proceeding on the
13 Accusation under all the provisions of the APA and shall not be
14 bound by any admission or waiver made herein.

15 7. The Order or any subsequent Order of the Real
16 Estate Commissioner made pursuant to this Stipulation and
17 Agreement shall not constitute an estoppel, merger or bar to any
18 further administrative or civil proceedings by the Department of
19 Real Estate with respect to any matters which were not
20 specifically alleged to be causes for accusation in this
21 proceeding.
22

23 * * *

24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations and waivers and
26 solely for the purpose of settlement of the pending Accusation
27

1 without a hearing, it is stipulated and agreed that the following
2 determination of issues shall be made:

3 I

4 The acts and omissions of Respondent as described in
5 the Accusation are grounds for the suspension or revocation of
6 Respondent's licenses and license rights under Sections 10176(a)
7 and 10177(g) of the Code, and Section 10145(c) of the Code.

8 * * *

9 ORDER

10 I

- 11 A. All real estate license(s) and license rights of Respondent
12 ROSARIO GONZALEZ are revoked.
- 13 B. A restricted real estate salesperson license shall be issued
14 to Respondent pursuant to Section 10156.6 of the Code if
15 Respondent makes application therefore and pays to the
16 Department the appropriate fee for said license within ninety
17 (90) days of the effective date of the Order.
- 18 C. The restricted license issued to Respondent shall be subject
19 to all of the provisions of Section 10156.7 of the Business
20 and Professions Code and to the following conditions and
21 limitations imposed under authority of Section 10156.6 of
22 said Code:
- 23 1) The restricted license issued to Respondent may be
24 suspended prior to hearing by order of the Real Estate
25 Commissioner in the event of Respondent's conviction or
26 plea of nolo contendere to a crime which bears a
27

1 substantial relationship to Respondent's fitness or
2 capacity as a real estate licensee.

3 2) The restricted license may be suspended prior to hearing
4 by Order of the Real Estate Commissioner on evidence
5 satisfactory to the Commissioner that Respondent has
6 violated provisions of the California Real Estate Law,
7 the Subdivided Lands Law, Regulations of the Real Estate
8 Commissioner or conditions attaching to the restricted
9 license.

10 3) Respondent shall not be eligible to apply for the
11 issuance of an unrestricted real estate license, nor the
12 removal of any of the conditions of the restricted
13 license, until two (2) years have elapsed from the
14 effective date of this Order.

15 D. Respondent shall submit with any application for license
16 under an employing broker, or any application for transfer
17 to a new employing broker, a statement signed by the
18 prospective employing real estate broker on a form approved
19 by the Department of Real Estate which shall certify:

20 (a) That the employing broker has read the Decision of the
21 Commissioner which granted the right to a restricted
22 license; and

23 (b) That the employing broker will exercise close
24 supervision over the performance by the restricted
25 licensee relating to activities for which a real estate
26 license is required.
27


1 E. Respondent shall not apply to a real estate broker's license
2 until she has successfully petitioned the Commissioner to
3 remove the restrictions from her real estate salesperson
4 license.

5 F. Respondent shall, within nine (9) months from the effective
6 date of this Order, present evidence satisfactory to the
7 Real Estate Commissioner that Respondent has, since the most
8 recent issuance of an original or renewal real estate
9 license, taken and successfully completed the continuing
10 education requirements of Article 2.5 of Chapter 3 of the
11 Real Estate Law for renewal of a real estate license. If
12 Respondent fails to satisfy this condition, the Commissioner
13 may order the suspension of the restricted license until
14 Respondent presents such evidence. The Commissioner shall
15 afford Respondent the opportunity for hearing pursuant to
16 the Administrative Procedure Act to present such evidence.

17 G. Respondent shall, within six (6) months from the effective
18 date of this Decision, take and pass the Professional
19 Responsibility Examination administered by the Department
20 including the payment of the appropriate examination fee.
21 If Respondent fails to satisfy this condition, the
22 Commissioner may order suspension of the restricted license
23 until Respondent passes the examination.
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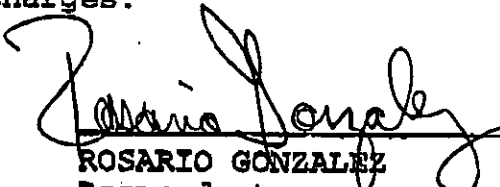
30-May-07
DATED


TRULY SUGHRUE
Counsel for Complainant

* * *

I have read the Stipulation and Agreement, and 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, 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.

May 17, 2007
DATED

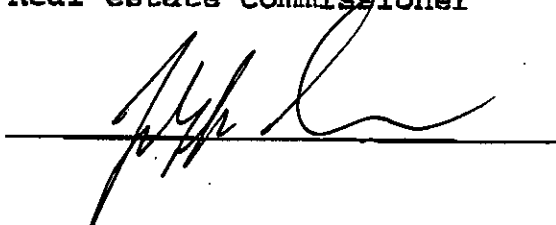

ROSARIO GONZALEZ
Respondent

* * *

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on JUL 17 2007

IT IS SO ORDERED 6-26, 2007.

JEFF DAVI
Real estate Commissioner



FILED
JAN 03 2007

DEPARTMENT OF REAL ESTATE

By *Anna Chavez*

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2 State Bar No. 223266
3 Department of Real Estate
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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11	In the Matter of the Accusation of)	No. H-2008 FR
12	ROSARIO GONZALEZ,)	<u>ACCUSATION</u>
13	Respondents.)	
14)	

15 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ROSARIO GONZALEZ (hereinafter "Respondent"), is informed
18 and alleges as follows:

I

20 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law, Part 1 of Division 4 of the
26 Business and Professions Code (hereinafter "Code").
27

III

1 Respondent ROSARIO GONZALEZ was licensed by the State
2 of California Department of Real Estate (hereinafter
3 "Department") as a real estate salesperson until September 18,
4 2003. Respondent's salesperson license renewal was effective
5 February 4, 2004. Respondent was not licensed as a real estate
6 salesperson or a real estate broker between September 19, 2003
7 and February 3, 2004.
8

IV

9
10 At all times herein mentioned, Respondent engaged in
11 the business of, acted in the capacity of, advertised and assumed
12 to act as real estate brokers in the State of California within
13 the meaning of Section 10131(a) of the Code, including the
14 operation and conduct of a real estate resale brokerage with the
15 public wherein, on behalf of others, for compensation or in
16 expectation of compensation, Respondents sold and offered to
17 sell, bought and offered to buy, solicited prospective sellers
18 and purchasers of, solicited and obtained listings of, and
19 negotiated the purchase and sale of real property.
20

V

21 On or about February 9, 2004, Respondent prepared and
22 submitted a written "Real Estate Purchase Agreement and Joint
23 Escrow Instruction" and a "Counter Offer #1" for the purpose of
24 real property located at 3206 Giovanetti, Lot No. 16, Tract No.
25 6124, Plan No. 2210, in the city of Bakersfield, California
26 (hereinafter "subject property") by Olga Leticia Peralta
27 (hereinafter after "Peralta").

VI

1 On or about February 10, 2004, WPCI, the
2 seller/subdivider/builder of the subject property accepted the
3 offer and counteroffer #1.
4

VII

5 On or about March 16, 2004 escrow instructions were
6 prepared for the Peralta and WPCI sale of the subject property at
7 Land American Commonwealth Escrow.
8

VIII

9 On or about March 29, 2004, Respondent prepared a
10 written "Real Estate Purchase Agreement and Joint Escrow
11 Instruction" and a "Counter Offer #1" for the purpose of the
12 subject property by Ana M. Arreola (hereinafter "Arreola").
13 Respondent received a deposit of \$2,500 from Arreola in the form
14 of a check made payable to Commonwealth Land Title Company.
15

IX

16 On or about April 2004 Respondent represented to
17 Arreola that the offer and counteroffer #1 of the subject
18 property had been accepted by WPCI.
19

X

20 GONZALEZ's representation that the offer made by
21 Arreola was accepted was false. In fact, the offer by Arreola
22 had never been presented to WPCI, was not accepted, and the
23 subject property was in escrow to Peralta.
24

XI

25 In connection with the receipt of earnest money deposit
26 received from Arreola, Respondent failed to immediately deliver
27

1 said trust funds to her broker, or at the broker's direction into
2 the hands of the broker's principal, into a neutral escrow
3 depository, or into his broker's trust fund account in violation
4 of Section 10145(c) of the Code.

5 XII

6 Respondent's conduct described in Paragraph X above
7 constitutes the making of substantial misrepresentations, and
8 fraud or dishonest dealing, and is cause under Sections 10176(a)
9 and 11076(i) of the Code for suspension or revocation of all
10 licenses and license rights of Respondent.

11 XIII

12 In the alternative, Respondent's conduct described
13 in Paragraph X above constitutes the making of substantial
14 misrepresentations, and negligence or incompetence in performing
15 acts requiring a real estate license, and is cause under
16 Sections 10176(a) and 11077(g) of the Code for suspension or
17 revocation of all licenses and license rights of Respondent.

18 XIV

19 The facts alleged in Paragraph XI are grounds for the
20 suspension or revocation of Respondent's licenses and license
21 rights under the following provisions of the Code under Section
22 10145(c) of the Code in conjunction with Section 10177(d) of the
23 Code.


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

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9 
10 JOHN W. SWEENEY
11 Deputy Real Estate Commissioner

11 Dated at Fresno, California,
12 this 26th day of December, 2006
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