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FILED

AUG 17 2009

DEPARTMENT OF REAL ESTATE

By K. Mar

BEFORE THE  
DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA

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In the Matter of the Application of	)	
	)	NO. H- 2349 FR
JOSE JESUS INIGUEZ,	)	
	)	<u>STIPULATION AND WAIVER</u>
Respondent.	)	

It is hereby stipulated by and between JOSE JESUS INIGUEZ, (Respondent herein), and Respondent's attorney, FRANK M. BUDA, and the Complainant, acting by and through RICHARD K. UNO, counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed on February 4, 2009 in this matter:

Respondent acknowledges that Respondent has received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate in connection with Respondent's application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real estate salesperson license based upon this Stipulation and Waiver. Respondent also understands that by filing the

1 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to  
2 Respondent to make a satisfactory showing that Respondent meets all the requirements for the  
3 issuance of a real estate salesperson license. Respondent further understands that by entering  
4 into this Stipulation and Waiver, Respondent will be stipulating that the Real Estate  
5 Commissioner has found that I have failed to make such a showing, thereby justifying the denial  
6 of the issuance to me of an unrestricted real estate salesperson license.

7 Respondent hereby admits that the allegations of the Statement of Issues filed  
8 against Respondent are true and correct and request that the Real Estate Commissioner in his  
9 discretion issue a restricted real estate salesperson license to Respondent under the authority of  
10 Section 10156.5 of the Business and Professions Code.

11 Respondent is aware that by signing this Stipulation and Waiver, Respondent is  
12 waiving Respondent's right to a hearing and the opportunity to present evidence at the hearing to  
13 establish my rehabilitation in order to obtain an unrestricted real estate salesperson license if this  
14 Stipulation and Waiver is accepted by the Real Estate Commissioner. However, Respondent is  
15 not waiving Respondent's right to a hearing and to further proceedings to obtain a restricted or  
16 unrestricted license if this Stipulation and Waiver is not accepted by the Commissioner.

17 Respondent further understand that the following conditions, limitations and  
18 restrictions will attach to a restricted real estate salesperson license issued by the Department of  
19 Real Estate pursuant hereto:

20 1. The license shall not confer any property right in the privileges to be exercised  
21 including the right of renewal, and the Real Estate Commissioner may by appropriate order  
22 suspend the right to exercise any privileges granted under this restricted license in the event of:

- 23 (a) The conviction of Respondent (including a plea of nolo contendere) to a crime  
24 which bears a substantial relationship to Respondent's fitness or capacity as a  
25 real estate licensee; or

26 ///

27 ///

1 (b) The receipt of evidence that Respondent has violated provisions of the  
2 California Real Estate Law, the Subdivided Lands Law, Regulations of the  
3 Real Estate Commissioner or conditions attaching to this restricted license.

4 2. Respondent shall not be eligible to apply for the issuance of an unrestricted  
5 real estate license nor the removal of any of the conditions, limitations or restrictions attaching  
6 to the restricted license until four (4) years has elapsed from the date of issuance of the restricted  
7 license to Respondent.

8 3. Six months after the issuance of the restricted license, and six months  
9 thereafter for a term of four years, Respondent shall provide proof acceptable to the Real Estate  
10 Commissioner that, during the preceding six months, Respondent has, each and every week,  
11 attended one or more sessions of Narcotics Anonymous, or that such attendance in any week  
12 was impractical due to travel for work, the illness of Respondent or a member of Respondent's  
13 family, incarceration, residential treatment for substance abuse, extreme personal hardship for  
14 Respondent or a member of Respondent's family, or family emergency. The Commissioner may  
15 suspend the restricted license issued to Respondent pending a hearing held in accordance with  
16 Section 11500, it seq., of the Government Code, if such proof is not timely submitted as provided  
17 for herein, or as provided for in a subsequent agreement between the Respondent and the  
18 Commissioner. The suspension shall remain in effect until such proof is submitted or until  
19 Respondent enters into an agreement satisfactory to the Commissioner to provide such proof, or  
20 until a decision providing otherwise is adopted following a hearing held pursuant to this  
21 condition.

22 4. With the application for license, or with the application for transfer to a new  
23 employing broker, Respondent shall submit a statement signed by the prospective employing  
24 broker on a form approved by the Department of Real Estate wherein the employing broker shall  
25 certify as follows:

26 (a) That broker has read the Statement of Issues which is the basis for the issuance  
27 of the restricted license; and

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(b) That broker will carefully review all transaction documents prepared by the restricted licenses and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

8/6/09  
DATED

*Richard K. Uno*  
RICHARD K. UNO, Counsel  
Department of Real Estate

I have read the Stipulation and Waiver, have discussed it with my counsel, 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 (including but not limited to Section 11506, 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of a hearing on the Statement of Issues at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by Respondent, to the Department at fax number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Waiver.

08-5-09  
Dated


*Jose Jesus Enriquez*  
JOSE JESUS ENRIQUEZ, Respondent

///  
///

1 I have reviewed the Stipulation and Waiver as to form and content and have  
2 advised my client accordingly.

3  
4 8.6.09

5 Dated

6 

7 FRANK M. BUDA,  
8 Attorney for Respondent

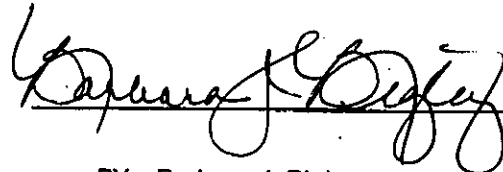
9 I have read the Statement of Issues filed herein and the foregoing Stipulation and  
10 Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further  
11 proof as to the honesty and truthfulness of Respondent need not be called and that it will not be  
12 inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

13 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson  
14 license be issued to respondent, if Respondent has otherwise fulfilled all of the statutory  
15 requirements for licensure. The restricted license shall be limited, conditioned and restricted as  
16 specified in the foregoing Stipulation and Waiver.

17 This Order is effective immediately.

18 DATED: 8-17-09

19 JEFF DAVI  
20 Real Estate Commissioner

21 

22 BY: Barbara J. Bigby  
23 Chief Deputy Commissioner

1 RICHARD K. UNO, Counsel (SBN 98275)  
2 Department of Real Estate  
3 P. O. Box 187007  
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-2380

FILED

FEB - 4 2009

DEPARTMENT OF REAL ESTATE

By K. Max

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

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11 In the Matter of the Application of  
12 JOSE JESUS INIGUEZ,  
13 Respondent.

No. H-2349 FR

STATEMENT OF ISSUES

14  
15 The Complainant, JOHN W. SWEENEY, a Deputy Real Estate Commissioner  
16 of the State of California, for Statement of Issues against JOSE JESUS INIGUEZ, (herein  
17 "Respondent"), alleges as follows:

18 1

19 Complainant makes this Statement of Issues in his official capacity.

20 2

21 On or about June 4, 2008, Respondent made application to the Department of  
22 Real Estate of the State of California (herein "the Department") for a real estate salesperson  
23 license.

24 3

25 On or about December 9, 2002 in the Superior Court of the State of California,  
26 County of Kern, Case No. BM 617907A, Respondent was convicted of violating Section  
27 11550(a) of the California Health and Safety Code (Under the Influence of a Controlled

1 Substance), a misdemeanor and a crime involving moral turpitude that bears a substantial  
2 relationship under Section 2910, Title 10 of the California Code of Regulations, (herein  
3 Regulations), to the qualifications, functions or duties of a real estate licensee.

4 4

5 On or about March 25, 2003 in the Superior Court of the State of California,  
6 County of Kern, Case No. BM 634485A, Respondent was convicted of violating Section  
7 11550(a) of the California Health and Safety Code (Under the Influence of a Controlled  
8 Substance), a misdemeanor and a crime involving moral turpitude that bears a substantial  
9 relationship under Section 2910 of the Regulations to the qualifications, functions or duties  
10 of a real estate licensee.

11 5

12 On or about August 29, 2003 in the Superior Court of the State of California,  
13 County of Kern, Case No. BM 641993A, Respondent was convicted of violating Section 243  
14 of the California Penal Code (Battery), a misdemeanor and a crime involving moral turpitude  
15 that bears a substantial relationship under Section 2910 of the Regulations, to the qualifications,  
16 functions or duties of a real estate licensee.

17 6

18 On or about June 21, 2005, in the Superior Court of the State of California,  
19 County of Kern, Case No. BM 67411A, Respondent was convicted of violating Section  
20 23152(b) of the California Vehicle Code (Driving Under the Influence of Alcohol or a Drug),  
21 a misdemeanor and a crime involving moral turpitude that bears a substantial relationship  
22 under Section 2910 of the Regulations, to the qualifications, functions or duties of a real estate  
23 licensee.

24 7

25 On or about October 14, 2005, in the Superior Court of the State of California,  
26 County of Kern, Case Number BM 67923A, Respondent was convicted of violating Section  
27 12500(a) of the California Vehicle Code (Driving Without a License), a misdemeanor and a

1 crime involving moral turpitude that bears a substantial relationship under Section 2910 of the  
2 Regulations, to the qualifications, functions or duties of a real estate licensee.

3 8

4 Respondent's criminal convictions, as set out in Paragraphs 3 through 7, above,  
5 constitute cause for denial of Respondent's application for a real estate salesperson license  
6 pursuant to the provisions of Sections 480(a) and 10177(b) of the Code.

7 WHEREFORE, Complainant prays that the above-entitled matter be set for  
8 hearing and, upon proof of the charges contained herein, that the Commissioner refuse to  
9 authorize the issuance of, and deny the issuance of a real estate salesperson license to  
10 Respondent, and for such other and further relief as may be proper in the premises.

11  
12   
13 JOHN W. SWEENEY  
14 Deputy Real Estate Commissioner

14 Dated at Fresno, California,  
15 this 3<sup>rd</sup> day of February 2009.