

1 Bureau of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007
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FILED

APR 04 2018

BUREAU OF REAL ESTATE
By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of

12 SOLDAVI REALTY, INC., and ARMANDO
13 DIAZ,

14 Respondents.)

No. H-3094 FR

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between SOLDAVI REALTY, INC. (SOLDAVI),
16 and ARMANDO DIAZ (DIAZ) (collectively "Respondents"), represented by Edgardo
17 Gonzalez, and the Complainant, acting by and through Truly Sughrue, Counsel for the Bureau
18 of Real Estate (Bureau), as follows for the purpose of settling and disposing the Accusation
19 filed on March 20, 2017, in this matter:

20 1. All issues which were to be contested and all evidence which was to be
21 presented by Complainant and Respondents 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
24 Stipulation and Agreement.

25 2. Respondents have received, read, and understand the Statement to
26 Respondent, and the Discovery Provisions of the APA filed by the Bureau in this proceeding.

1 3. Respondents filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
4 acknowledge that Respondents understand that by withdrawing said Notice of Defense
5 Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA, and that Respondents will waive other rights
8 afforded to Respondents in connection with the hearing such as the right to present evidence in
9 defense of the allegations in the Accusation and the right to cross-examine witnesses.

10 4. This Stipulation and Agreement is based on the factual allegations
11 contained in the Accusation. In the interest of expediency and economy, Respondents choose not
12 to contest these factual allegations, but to remain silent and understand that, as a result thereof,
13 these factual statements will serve as a prima facie basis for the "Determination of Issues" and
14 "Order" set forth below. The Commissioner shall not be required to provide further evidence to
15 prove such allegations.

16 5. The attached Statement of Mitigation provided by Respondents is hereby
17 incorporated by reference and shall become part of the Stipulation.

18 6. This Stipulation and Agreement and Respondents' decision not to contest
19 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
20 are expressly limited to this proceeding and any other proceeding or case in which the Bureau,
21 the state or federal government, an agency of this state, or an agency of another state is involved.

22 7. Respondents understand that by agreeing to this Stipulation and
23 Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business and
24 Professions Code (Code), the cost of the audit, which resulted in the determination that
25 Respondents committed the trust fund handling violation(s) found in the Determination of
26 Issues. The amount of said costs is \$5,513.07.

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1 As to Paragraphs 11(b) and 11(f), under Section 10177(d) of the Code in
2 conjunction with Section 10145 of the Code and Section 2832 of the Regulations;

3 As to Paragraph 11(c), under Section 10177(d) of the Code in conjunction with
4 Section 10145 of the Code and Section 2831 of the Regulations;

5 As to Paragraph 11(d), under Section 10177(d) of the Code in conjunction with
6 Section 10145 of the Code and Section 2831.1 of the Regulations; and

7 As to Paragraph 11(e), under Section 10177(d) of the Code in conjunction with
8 Section 10145 of the Code and Section 2831.2 of the Regulations; and

9 As to Paragraph 11(g), under Section 10177(g) of the Code

10 II

11 The acts and/or omissions of DIAZ as described in the Second Cause of Action
12 of the Accusation is cause for the suspension or revocation of Respondent's license and/or
13 license rights under Section 10177(h) of the Code.

14 * * *

15 ORDER

16 I

17 All licenses and licensing rights of Respondent SOLDAVI under the Real Estate
18 Law are revoked; provided, however, a restricted real estate corporate broker license shall be
19 issued to SOLDAVI pursuant to Section 10156.5 of the Code if SOLDAVI makes application
20 therefor and pays to the Bureau the appropriate fee for the restricted license within 90 days from
21 the effective date of this Decision and Order. The restricted license issued to SOLDAVI shall be
22 subject to all of the provisions of Section 10156.7 of the 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 SOLDAVI may be suspended prior to
25 hearing by Order of the Commissioner in the event of SOLDAVI's conviction or plea of nolo
26 contendere to a crime which is substantially related to SOLDAVI's fitness or capacity as a real
27 estate licensee.

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

3. SOLDAVI 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 a
restricted license until two (2) years have elapsed from the effective date of this Decision and
Order. SOLDAVI shall not be eligible to apply for any unrestricted licenses until all restrictions
attaching to the license have been removed.

II

All licenses and licensing rights of Respondent DIAZ under the Real Estate Law
are revoked; provided, however, a restricted real estate broker license shall be issued to DIAZ
pursuant to Section 10156.5 of the Code if DIAZ makes application therefor and pays to the
Bureau the appropriate fee for the restricted license within 90 days from the effective date of this
Decision and Order. The restricted license issued to DIAZ 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 that Code:

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

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

3. DIAZ 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 a restricted
license until two (2) years have elapsed from the effective date of this Decision and Order. DIAZ

1 shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the
2 license have been removed.

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

12 5. All licenses and licensing rights of DIAZ are indefinitely suspended unless
13 or until DIAZ provides proof satisfactory to the Commissioner, of having taken and successfully
14 completed the continuing education course on trust fund accounting and handling specified in
15 paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of satisfaction of these
16 requirements includes evidence that DIAZ has successfully completed the trust fund account and
17 handling continuing education courses, no earlier than 120 days prior to the effective date of the
18 Decision and Order in this matter. Proof of completion of the trust fund accounting and handling
19 course must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013,
20 Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective date of this
21 Decision and Order.

22 III

23 1. Pursuant to Section 10148 of the Code, Respondents shall jointly and
24 severally pay the sum of \$5,513.07 for the Commissioner's cost of the audit which led to this
25 disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an
26 invoice therefore from the Commissioner. Payment of audit costs should not be made until
27 Respondents receive the invoice. If Respondents fail to satisfy this condition in a timely manner

1 as provided for herein, Respondents' real estate license shall automatically be suspended until
2 payment is made in full, or until a decision providing otherwise is adopted following a hearing
3 held pursuant to this condition.

4 2. Pursuant to Section 10148 of the Code, Respondents shall pay the
5 Commissioner's reasonable cost, not to exceed \$6,891.33, for an audit to determine if
6 Respondents have corrected the violation(s) found in the Determination of Issues. In calculating
7 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
8 average hourly salary for all persons performing audits of real estate brokers, and shall include an
9 allocation for travel time to and from the auditor's place of work. Respondents shall pay such
10 cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of
11 the audit costs should not be made until Respondents receive the invoice. If Respondents fail to
12 satisfy this condition in a timely manner as provided for herein, Respondents' real estate license
13 shall automatically be suspended until payment is made in full, or until a decision providing
14 otherwise is adopted following a hearing held pursuant to this condition.

15 14-March-18
16 DATED


17 TRULY SUGHRUE
18 Counsel for Complainant

19 * * *

20 I have read the Stipulation and Agreement, discussed it with my counsel, and its
21 terms are understood by me and are agreeable and acceptable to me. I understand that I am
22 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
23 intelligently and voluntarily waive those rights, including the right of requiring the
24 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
25 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
26 the charges.
27

1 Respondents and Respondents' attorney further agree to send the original signed
2 Stipulation and Agreement by mail to the following address no later than one (1) week from the
3 date the Stipulation and Agreement is signed by Respondents and Respondents' attorney:

4 *Bureau of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.*

5 Respondents and Respondents' attorney understand and agree that if they fail to return the
6 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
7 this matter for hearing.

8
9 2-27-18
10 DATED

11 Armando Diaz, Designated Officer
12 SOLDAVI REALTY, INC,
13 Respondent


14 2-27-18
15 DATED

16 ARMANDO DIAZ
17 Respondent

18 ***

19 *I have reviewed the Stipulation and Agreement as to form and content and have*
20 *advised my clients accordingly.*

21 2-27-18
22 DATED

23 
24 Edgardo Gonzalez
25 Attorney for Respondents

26 ***

27 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
28 Order and shall become effective at 12 o'clock noon on APR 25 2018

29 IT IS SO ORDERED March 29, 2018

30 WAYNE S. BELL
31 REAL ESTATE COMMISSIONER

32 

33 By: DANIEL J. SANDRI
34 Chief Deputy Commissioner