

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

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FILED
 SEP 01 2005

DEPARTMENT OF REAL ESTATE

By *Carrie Shaw*

7 **DEPARTMENT OF REAL ESTATE**
 8 **STATE OF CALIFORNIA**

9
 10 *In the Matter of the Application of*

11 **ALAIN GUY GUIZAR**

12
 13 Respondent

) No. H- 3164 SD
)
)

) **STIPULATION AND**
) **WAIVER**
)
)

14
 15 It is hereby stipulated by and between ALAIN GUY GUIZAR (hereinafter "Respondent") and
 16 Respondent's attorney, John P. Murphy, and the Complainant, acting by and through Truly Sughrue,
 17 Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the
 18 Statement of Issues filed on March 2, 2005 in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues and the
 20 Statement to Respondent filed by the Department of Real Estate in connection with Respondent's
 21 application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner
 22 may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's
 23 honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the
 24 hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and
 25 Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate
 26 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meets
 27 all the requirements for issuance of a real estate salesperson license. Respondent further understands that by

1 entering into this stipulation and waiver Respondent will be stipulating that the Real Estate Commissioner
2 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance
3 to Respondent of an unrestricted real estate salesperson license.

4 Respondent hereby admits that the allegations of the Statement of Issues filed against Respondent are
5 true and correct and requests that the Real Estate Commissioner in his discretion issue a restricted real
6 estate salesperson license to Respondent under the authority of Section 10156.5 of the Business and
7 Professions Code. Respondent understands that any such restricted license will be issued subject to and be
8 limited by Section 10153.4 of the Business and Professions Code.

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

15 Respondent further understands that the following conditions, limitations, and restrictions will attach
16 to a restricted license issued by the Department of Real Estate pursuant hereto:

- 17 1. The license shall not confer any property right in the privileges to be exercised including the
18 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
19 to exercise any privileges granted under this restricted license in the event of:
- 20 a. The conviction of Respondent (including a plea of nolo contendere) to a crime which bears
21 a substantial relationship to Respondent's fitness or capacity as a real estate licensee; or
- 22 b. The receipt of evidence that Respondent has violated provisions of the California Real
23 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
24 conditions attaching to this restricted license.
- 25 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license
26 nor the removal of any of the conditions, limitations or restrictions attaching to the restricted
27

1 license until two years have elapsed from the date of issuance of the restricted license to
2 Respondent.

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

7 a. That broker has read the Statement of Issues which is the basis for the issuance of the
8 restricted license; and

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

- 12 4. Respondent's restricted real estate salesperson license is issued subject to the requirements of
13 Section 10153.4 of the Business and Professions Code, to wit: Respondent is required, within
14 eighteen (18) months of the issuance of the restricted license, to submit evidence satisfactory to
15 the Commissioner of successful completion, at an accredited institution, of two of the courses
16 listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate,
17 advanced real estate finance, or advanced real estate appraisal. If Respondent fails to timely
18 present to the Department satisfactory evidence of successful completion of the two required
19 courses, the restricted license shall be automatically suspended effective eighteen (18) months
20 after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of
21 the restricted license, Respondent has submitted the required evidence of course completion and
22 the Commissioner has given written notice to Respondent of the lifting of the suspension.

- 23 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified
24 license under Section 10153.4, Respondent shall not be entitled to renew the restricted license,
25 and shall not be entitled to the issuance of another license which is subject to Section 10153.4
26 until four years after the date of the issuance of the preceding restricted license.

1 15-Aug-05
2 Dated


TRULY SUGHRUE, Counsel, Department of Real Estate

3
4 I have read the Stipulation and Waiver, have discussed it with my counsel, and its terms are
5 understood by me and are applicable and acceptable to me. I understand that I am waiving rights given to me
6 by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509,
7 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights,
8 including the right of a hearing on the Statement of Issues in 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 can signify acceptance and approval of the terms and conditions of this Stipulation and
11 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
12 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
13 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt
14 of the faxed copy by the Department shall be as binding on Respondent as if the Department had received
15 the original signed Stipulation and Waiver.

16 08-08-05

Dated


ALAIN GUY GUIZAR, Respondent

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

20 8-4-05

Dated


JOHN F. MURPHY, Attorney for Respondent

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

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

This Order is effective immediately.

IT IS SO ORDERED 8-30-05


Jeff Davi
Real Estate Commissioner

1 JAMES L. BEAVER, Counsel (SBN 60543)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 -or- (916) 227-0788 (Direct)

FILED
MAR - 2 2005

DEPARTMENT OF REAL ESTATE

By *[Signature]*

7 BEFORE THE DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Application of)
11 ALAIN GUY GUIZAR,)
12 Respondent.)

No. H-3164 SD

STATEMENT OF ISSUES

13
14 The Complainant, J. Chris Graves, a Deputy Real Estate
15 Commissioner of the State of California, for Statement of Issues
16 against ALAIN GUY GUIZAR (hereinafter "Respondent"), alleges as
17 follows:

18 I

19 Complainant, J. Chris Graves, a Deputy Real Estate
20 Commissioner of the State of California, makes this Statement of
21 Issues in his official capacity.

22 II

23 Respondent made application to the Department of Real
24 Estate of the State of California for a real estate salesperson
25 license on or about November 5, 2003 with the knowledge and
26 understanding that any license issued as a result of said
27 application would be subject to the conditions of Section

1 10153.4 of the California Business and Professions Code
2 (hereinafter "the Code").

3 III

4 On or about March 1, 2004, in the United States
5 District Court, Southern District of California, Respondent was
6 convicted of the crime of Aiding and Abetting Misbranding in
7 violation of Title 21 United States Code Section 331(k) in
8 conjunction with 18 United States Code Section 2, and of the
9 crime of Aiding and Abetting Adulteration in violation of Title
10 21 United States Code Section 331(a)(1) in conjunction with 18
11 United States Code Section 2, each a misdemeanor and a crime
12 involving moral turpitude which bears a substantial relationship
13 under Section 2910 of Chapter 6, Title 10, California Code of
14 Regulations (herein "the Regulations"), to the qualifications,
15 functions or duties of a real estate licensee.

16 IV

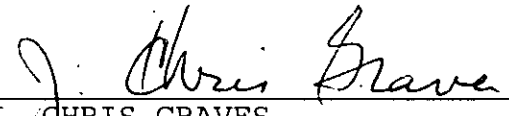
17 On or about September 5, 2000, in the Superior Court
18 of the State of California, County of San Diego, Respondent was
19 convicted of the crime of Public Intoxication in violation of
20 Penal Code Section 647(f), a misdemeanor and a crime involving
21 moral turpitude which bears a substantial relationship under
22 Section 2910 of the Regulations to the qualifications, functions
23 or duties of a real estate licensee.

24 V

25 Respondent's criminal convictions described in
26 Paragraphs III and IV, above, individually and collectively
27 constitute cause for denial of Respondent's application for a

1 real estate license under Sections 480(a) and 10177(b) of the
2 California Business and Professions Code.

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

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10 
11 J. CHRIS GRAVES
12 Deputy Real Estate Commissioner

13 Dated at San Diego, California,
14 this 18th day of February, 2005.
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