

1 Department of Real Estate  
2 P. O. Box 137007  
3 Sacramento, CA 95813-7007

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**FILED**

**MAR 02 2020**

DEPARTMENT OF REAL ESTATE  
By B. McWhirter

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9 **DEPARTMENT OF REAL ESTATE**  
10 **STATE OF CALIFORNIA**

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12 *In the Matter of the Application of*

13 LUIS ALBERTO FERNANDEZ,

14 Respondent.

H-3269 FR

**STIPULATION AND WAIVER**  
(Per Business and Professions Code § 10100.4)

15 LUIS ALBERTO FERNANDEZ, ("Respondent") does hereby affirm that on July  
16 6, 2018, he applied to the Department of Real Estate ("Department") for a real estate salesperson  
17 license and that to the best of his knowledge he satisfied all of the statutory requirements for the  
18 issuance of the license, including the payment of the fee therefore.

19 **FACTUAL BASIS**

20 On or about September 27, 2013, in the Superior Court of California, County of  
21 Merced, Case No.CRL006267, Respondent was convicted of violating California Vehicle Code  
22 Section 23152(a) (driving under the influence), a misdemeanor.

23 On or about September 27, 2013, in the Superior Court of California, County of  
24 Merced, Case No. CRL010147, Respondent was convicted of violating California Vehicle Code  
25 Section 2800.2(a) (evading a peace officer), a felony.

26 On or about June 9, 2011, in the Superior Court of California, County of Santa  
27 Clara, Case No. FF720401, Respondent was convicted of violating California Vehicle Code

1 Section 2800.2(a) (evading a peace officer) and Section 23103(a) (reckless driving), both  
2 felonies.

3 On or about June 9, 2011, in the Superior Court of California, County of Santa  
4 Clara, Case No. CC823317, Respondent was convicted of violating California Penal Code  
5 Section 529 (falsely personated another), a felony.

6 On or about June 10, 2003, in the Superior Court of California, County of Santa  
7 Clara, Case No. CC266785, Respondent was convicted of violating California Vehicle Code  
8 Section 23152(a) (driving under the influence), a misdemeanor.

9 On or about June 23, 1999, in the Superior Court of California, County of Santa  
10 Clara, Case No. CC9761566, Respondent was convicted of violating California Vehicle Code  
11 Section 14601.1(a) (driving on a suspended or revoked license), a misdemeanor.

#### 12 GROUND'S FOR DENIAL

13 Respondent's criminal convictions constitute grounds under Sections 480,  
14 10177(b), and 10177(j) of the Business and Professions Code ("Code") for the denial of  
15 Respondent's application for an unrestricted real estate license.

#### 16 TERMS AND CONDITIONS

17 Respondent understands that the Real Estate Commissioner ("Commissioner")  
18 may hold a hearing regarding the matters discussed above for the purpose of requiring further  
19 proof of Respondent's honesty and truthfulness and to prove other allegations therein, or that the  
20 Commissioner may waive the hearing and grant Respondent a restricted real estate salesperson  
21 license based upon this Stipulation and Waiver. Respondent also understands that by entering  
22 into this Stipulation and Waiver, Respondent will be stipulating that the Commissioner has found  
23 that Respondent has failed to make a showing that Respondent meets all the requirements for  
24 issuance of a real estate salesperson license thereby justifying the denial of the issuance to him of  
25 an unrestricted real estate salesperson license.

26 Respondent hereby admits the above Factual Basis is true and correct and requests  
27 that the Commissioner issue a restricted real estate salesperson license to Respondent under the

1 authority of section 10100.4 and 10156.5 of the Code. Respondent understands that any such  
2 restricted license will be issued subject to the provisions of and limitations of sections 10156.6  
3 and 10156.7 of the Code.

4 Respondent is aware that by signing this Stipulation and Waiver, and if this  
5 Stipulation and Waiver is accepted by the Commissioner, Respondent is waiving his right to a  
6 hearing and the opportunity to present evidence at the hearing to establish his rehabilitation in  
7 order to obtain an unrestricted real estate salesperson license. Respondent is not waiving his  
8 right to a hearing and to further proceedings to obtain a restricted or unrestricted license if this  
9 Stipulation and Waiver is not accepted by the Commissioner.

10 Respondent agrees that by signing this Stipulation and Waiver, the conditions,  
11 limitations, and restrictions imposed on Respondent's restricted license, identified below, may be  
12 removed only by filing a Petition for Removal of Restrictions ("petition") with the  
13 Commissioner, and that Respondent's petition must follow the procedures set forth in  
14 Government Code Section 11522. Respondent understands that this Stipulation and Waiver,  
15 which was executed pursuant to the authority under section 10100.4 and 10156.5 of the Code, is  
16 considered discipline by the Department.

17 Respondent further understands that the restricted license issued to Respondent  
18 shall be subject to all of the provisions of Section 10156.7 of the Code and to the following  
19 limitations, conditions, and restrictions imposed under the authority of Section 10156.6 of the  
20 Code:

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

24 a. Respondent's conviction (including a plea of nolo contendere) of a  
25 crime which bears a substantial relationship to Respondent's fitness or capacity as a real estate  
26 licensee; or  
27

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

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

10                  3.       With the application for license, or with the application for transfer to a  
11 new employing broker, Respondent shall submit a statement signed by the prospective employing  
12 broker on a form approved by the Department wherein the employing broker shall certify as  
13 follows:

14                  a.       That broker has read the Stipulation and Waiver which is the basis for the  
15 issuance of the restricted license; and

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

19                  4.       Respondent shall notify the Commissioner in writing within 72 hours of  
20 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,  
21 Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set forth the date of  
22 Respondent's arrest, the crime for which Respondent was arrested and the name and address of  
23 the arresting law enforcement agency. Respondent's failure to timely file written notice shall  
24 constitute an independent violation of the terms of the restricted license and shall be grounds for  
25 the suspension or revocation of that license.


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Dated

  
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Kyle Jones, Counsel  
Department of Real Estate

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Respondent has read the Stipulation and Waiver and its terms are understood by Respondent and agreeable and acceptable to Respondent. Respondent understands that Respondent is waiving rights given to Respondent by the California Administrative Procedure Act (including, but not limited to, California Government Code sections 11504, 11506, 11508, 11509, and 11513), and willingly, intelligently, and voluntarily waives those rights, including, but not limited to, the right to a hearing on a Statement of Issues at which he would have the right to cross-examine witnesses against Respondent and to present evidence in defense and mitigation of the charges.

12-23-19  
Dated

  
\_\_\_\_\_  
LUIS ALBERTO FERNANDEZ, Respondent

I have read 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.

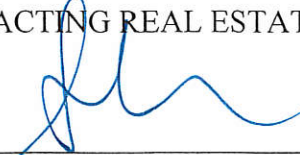
Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to Respondent LUIS ALBERTO FERNANDEZ, if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in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

This Order is effective immediately.

IT IS SO ORDERED

2/27/20

SANDRA KNAU  
ACTING REAL ESTATE COMMISSIONER

  
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