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FILED
AUG 30 2006

DEPARTMENT OF REAL ESTATE

By Erin Shawver

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

EDGAR A. HARRIS,

Respondent.

No. H-3319 SD

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between EDGAR A. HARRIS (hereafter Respondent) and his attorney, Eric Ginder, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing the Accusation filed on October 24, 2005 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act (APA), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

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

6 3. On November 9, 2005, Respondent filed a Notice of
7 Defense pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that he
11 understands that by withdrawing said Notice of Defense he will
12 thereby waive his rights to require the Commissioner to prove the
13 allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA, and that he will waive
15 other rights afforded to him in connection with the hearing such
16 as the right to present evidence in defense of the allegations in
17 the Accusation and the right to cross-examine witnesses.

18 4. Without admitting the truth of the allegations
19 contained in the Accusation, Respondent stipulates that he will
20 not interpose a defense thereto. This Stipulation is based on
21 the factual allegations contained in the Accusation. In the
22 interests of expedience and economy, Respondent choose not to
23 contest the allegations, but to remain silent, and understand
24 that, as a result thereof, these factual allegations, without
25 being admitted or denied, will serve as a basis for the
26 disciplinary action stipulated to herein. The Real Estate
27

1 Commissioner shall not be required to provide further evidence to
2 prove said factual allegations.

3 6. The Order or any subsequent Order of the Real
4 Estate Commissioner made pursuant to this Stipulation and
5 Agreement shall not constitute an estoppel, merger or bar to any
6 further administrative or civil proceedings by the Department of
7 Real Estate with respect to any matters which were not
8 specifically alleged to be causes for accusation in this
9 proceeding. The Stipulation and Agreement shall be binding only
10 for this and any subsequent action by the Real Estate
11 Commissioner.

12 * * *

13 DETERMINATION OF ISSUES

14 By reason of the foregoing stipulations and waivers and
15 solely for the purpose of settlement of the pending Accusation
16 without a hearing, it is stipulated and agreed that the following
17 determination of issues shall be made:

18 The acts and/or omissions of Respondent EDGAR A. HARRIS
19 as stipulated above violate Section 10177(g) of the California
20 Business and Professions Code (hereinafter Code).

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1 * * *

2 ORDER

3 I

4 All licenses and licensing rights of Respondent EDGAR

5 A. HARRIS under the Real Estate Law are suspended for a period of
6 forty (40) days from the effective date of this Order; provided,
7 however, that:

8 1) Twenty (20) days of said suspension shall be stayed, upon the
9 condition that Respondent petition pursuant to Section 10175.2
10 of the Business and Professions Code and pays a monetary
11 penalty pursuant to Section 10175.2 of the Business and
12 Professions Code at a rate of \$100 for each day of the
13 suspension for a total monetary penalty of \$2,000.

14 a) Said payment shall be in the form of a cashier's check or
15 certified check made payable to the Recovery Account of the
16 Real Estate Fund. Said check must be delivered to the
17 Department prior to the effective date of the Order in this
18 matter.

19 b) No further cause for disciplinary action against the Real
20 Estate licenses of said Respondent occurs within two (2)
21 years from the effective date of the decision in this
22 matter.

23 c) If Respondent fails to pay the monetary penalty as provided
24 above prior to the effective date of this Order, the stay of
25 the suspension shall be vacated as to that Respondent and
26 the order of suspension shall be immediately executed, under
27 this Paragraph 1(d) of this Order, in which event the said

1 Respondent shall not be entitled to any repayment nor
2 credit, prorated or otherwise, for the money paid to the
3 Department under the terms of this Order.

4 d) If said Respondent pay the monetary penalty and any other
5 moneys due under this Stipulation and Agreement and if no
6 further cause for disciplinary action against the real
7 estate license of said Respondent occurs within two (2)
8 years from the effective date of this Order, the entire stay
9 hereby granted under Paragraph 1 of this Order, as to said
10 Respondent only, shall become permanent.

11 2) The remaining twenty (20) days of said suspension shall be
12 stayed for two (2) years upon the following terms and
13 conditions:

14 a) Respondent shall obey all laws, rules and regulations
15 governing the rights, duties and responsibilities of a real
16 estate licensee in the State of California; and,

17 b) That no final subsequent determination be made, after
18 hearing or upon stipulation, that cause for disciplinary
19 action occurred within two (2) years from the effective date
20 of this Order. Should such a determination be made, the
21 Commissioner may, in his discretion, vacate and set aside
22 the stay order and reimpose all or a portion of the stayed
23 suspension. Should no such determination be made, the stay
24 imposed herein shall become permanent.

25 3) Respondent shall, within six (6) months from the effective
26 date of this Decision, take and pass the Professional
27 Responsibility Examination administered by the Department

including the payment of the appropriate examination fee. If Respondent fails to satisfy this condition, the Commissioner may order suspension of the license until Respondent passes the examination.

26-June-06
DATED

TRILY 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.

Feb 1st, 2006
DATED

EDGAR A. HARRIS
Respondent

I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

2-1-06

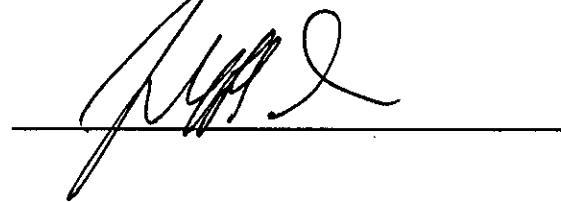
ERIC GINDER

* * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision and shall become effective at 12 o'clock
noon on SEP 19 2006

IT IS SO ORDERED 8-15, 2006.

JEFF DAVI
Real estate Commissioner

A handwritten signature in dark ink, appearing to read 'Jeff Davi', is written over a horizontal line.

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6
7 Telephone: (916) 227-0781

FILED

OCT 24 2005

DEPARTMENT OF REAL ESTATE

By Jean Armit

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-3319 SD

12 EDGAR A. HARRIS,)

ACCUSATION

13 Respondent.)
14

15 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against EDGAR A. HARRIS (herein "Respondent"), is informed and
18 alleges as follows:

19 I

20 The Complainant, J. CHRIS GRAVES, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 At all times herein mentioned, Respondent was and now
25 is licensed and/or has license rights under the Real Estate Law
26 (Part 1 of Division 4 of the Business and Professions Code)
27 (herein "the Code").

III

At all times herein mentioned, Respondent was and is licensed by the Department of Real Estate (hereafter the Department) as a real estate broker.

IV

At all times herein mentioned, Respondent engaged in the business of, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(a) of the Code, including the operation and conduct of a real estate resale brokerage with the public wherein, on behalf of others, for compensation or in expectation of compensation, Respondent sold and offered to sell, bought and offered to buy, solicited prospective sellers and purchasers of, solicited and obtained listings of, and negotiated the purchase and resale of real property.

V

On or about September 24, 2004 Respondent entered into a contract with Joe Bihary and Lorna Long to list and sell property located at 411 Smilax Road, Vista, California (hereinafter "Smilax property").

VI

On or about, November 16, 2004, Respondent procured a written offer for the purchase of the Smilax property from David Smith (hereinafter "BUYER"). Respondent represented in said offer that he was in receipt of a check in the amount of \$5,000 from BUYER.

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VI

On or about November 16, 2004, the SELLER accepted the offer.

VII

Respondent's representation that he was in receipt of the \$5,000 check was false.

VIII

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

IX

In the alternative, Respondent's conduct described in Paragraph VII above constitutes negligence or incompetence in performing acts requiring a real estate license, and is cause under Section 10177(g) of the Code for suspension or revocation of all licenses and license rights of Respondent.

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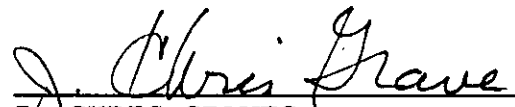
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1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondents,
5 under 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.

8
9 
10 J. CHRIS GRAVES
Deputy Real Estate Commissioner

11 Dated at San Diego, California,
12 this 7th day of October, 2005
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