

FILED

JUN 28 2022

DEPARTMENT OF REAL ESTATE

By

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007
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7 Telephone: (916) 576-8700

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:) Case No. H-3342 FR
12)
13 MONTES-GONZALEZ MANAGEMENT, INC.) STIPULATION AND AGREEMENT
14 EMMA JULIETA GONZALEZ, and) IN SETTLEMENT AND ORDER
15 MELISSA MONTES,)
16 Respondents.)
17)

18 It is hereby stipulated by and between Respondents MONTES-GONZALEZ
19 MANAGEMENT, INC. ("MGM"), EMMA JULIETA GONZALEZ ("GONZALEZ"), and
20 MELISSA MONTES ("MONTES"), (collectively "Respondents"), acting by and through Mary
21 E. Work, Counsel for Respondents, and the Complainant, acting by and through Adriana Z.
22 Badilas, Counsel for the Department of Real Estate ("Department"), as follows for the purpose
23 of settling and disposing of the Accusation filed on December 16, 2020, in this matter:

24 1. All issues which were to be contested and all evidence which was to be
25 presented by Complainant and Respondents at a formal hearing on the Accusation, which
26 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
27 ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of
this Stipulation and Agreement In Settlement and Order ("Stipulation and Agreement").

2. Respondents have received, read and understand the Statement to
Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department

1 of Real Estate in this proceeding.

2 3. On December 24, 2020, a Notice of Defense was received from all
3 Respondents pursuant to Section 11505 of the Government Code for the purpose of requesting
4 a hearing on the allegations made in the Accusation. Respondents hereby freely and voluntarily
5 withdraw said Notices of Defense. Respondents acknowledge that they understand that by
6 withdrawing said Notices of Defense they will thereby waive their rights to require the
7 Commissioner to prove the allegations in the Accusation at a contested hearing held in
8 accordance with the provisions of the APA and that they will waive other rights afforded to
9 them in connection with the hearing such as the right to present evidence in defense of the
10 allegations in the Accusation and the right to cross-examine witnesses.

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

17 5. This Stipulation and Agreement is made for the purpose of reaching an
18 agreed disposition of this proceeding and is expressly limited to this proceeding and any other
19 proceeding or case in which the Department, the state or federal government, any agency of
20 this state, or an agency of another state is involved.

21 6. It is understood by the parties that the Real Estate Commissioner may adopt
22 the Stipulation and Agreement as his Decision in this matter, thereby imposing the penalties
23 and sanctions on Respondents' real estate licenses and license rights as set forth in the below
24 "Order." In the event that the Commissioner in his discretion does not adopt the Stipulation
25 and Agreement, it shall be void and of no effect, and Respondents shall retain the right to a
26 hearing and proceeding on the Accusation under all the provisions of the APA and shall not be
27 bound by any admission or waiver made herein.

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

6 DETERMINATION OF ISSUES

7 By reason of the foregoing stipulations, admissions, and waivers, and solely for
8 the purpose of settlement of the pending Accusation without further proceedings, it is stipulated
9 and agreed that the following Determination of Issues shall be made:

10 1. The acts and/or omissions of MGM, as described in the Accusation, are
11 grounds for the suspension or revocation of the licenses and license rights of MGM under the
12 provisions of Sections 10137, 10145, 10159.5, 10176(e), 10177(d), and 10177(g) of the Code,
13 and Sections 2731, 2831.1, 2831.2, 2832.1, 2832, and 2834 of Title 10, California Code of
14 Regulations ("Regulations").

15 2. The acts and/or omissions of GONZALEZ, as described in the Accusation, are
16 grounds for the suspension or revocation of the licenses and license rights of GONZALEZ under
17 the provisions of Sections 10137, 10145, 10159.2, 10159.5, 10176(e), 10177(d), 10177(g), and
18 10177(h) of the Code, and Sections 2731, 2831.1, 2831.2, 2832.1, 2832, and 2834 of the
19 Regulations.

20 3. The acts and/or omissions of MONTES, as described in the Accusation, are
21 grounds for the suspension or revocation of the licenses and license rights of MONTES under the
22 provisions of Sections 10137, 10177(d), and 10177(g) of the Code, and Sections 2834 of the
23 Regulations.

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1 2. Thirty (30) days of said suspension shall be stayed for two (2) years upon
2 the following terms and conditions:

- 3 a) MGM shall obey all laws, rules and regulations governing the rights, duties
4 and responsibilities of a real estate licensee in the State of California; and,
5 b) That no final subsequent determination be made, after hearing or upon
6 stipulation that cause for disciplinary action occurred within two (2) years
7 from the effective date of this Order. Should such a determination be made,
8 the Commissioner may, in his discretion, vacate and set aside the stay order
9 and re-impose all or a portion of the stayed suspension. Should no such
10 determination be made, the stay imposed herein shall become permanent.

11 3. All licenses and licensing rights of MGM, are indefinitely suspended unless or
12 until MGM, jointly and severally with GONZALEZ and MONTES, pay the sum of \$3,226.10 for
13 the Commissioner's reasonable cost of the investigation and enforcement which led to this
14 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
15 made payable to the Department of Real Estate. The investigative and enforcement costs must be
16 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA
17 95813-7013, prior to the effective date of this Order.

18 4. MGM shall, jointly and severally with GONZALEZ, pay the sum of
19 \$4,405.25 for the Commissioner's cost of the audit which led to this disciplinary action. MGM
20 shall, jointly and severally with GONZALEZ, pay such cost within sixty (60) days of receiving
21 an invoice therefore from the Commissioner. The Commissioner shall indefinitely suspend all
22 licenses and licensing rights of MGM pending a hearing held in accordance with Section
23 11500, et seq., of the Government Code, if payment is not timely made as provided for herein,
24 or as provided for in a subsequent agreement between MGM and the Commissioner. The
25 suspension shall remain in effect until payment is made in full or until MGM enter into an
26 agreement satisfactory to the Commissioner to provide for payment, or until a decision
27 providing otherwise is adopted following a hearing held pursuant to this condition.

5. MGM shall, jointly and severally with GONZALEZ, pay the Commissioner's costs, not to exceed \$5,506.56, of any audit conducted pursuant to Section 10148 of the Code to determine if MGM has corrected the violations described in the Determination of Issues, above, and any other violations found in the audit which led to this disciplinary action. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. MGM shall, jointly and severally with GONZALEZ, pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner detailing the activities performed during the audit and the amount of time spent performing those activities. If MGM fails to, jointly and severally with GONZALEZ, pay such cost within the sixty (60) days, the Commissioner shall indefinitely suspend all licenses and licensing rights of MGM under the Real Estate Law until payment is made in full or until MGM enters into an agreement satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite suspension provided for in this paragraph shall be stayed.

II. As to GONZALEZ

All licenses and licensing rights of GONZALEZ, under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order; provided, however, that:

1. Thirty (30) days of said suspension shall be stayed, upon the condition that GONZALEZ petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section 10175.2 of the Code at a rate of \$100 for each day of the suspension for a total monetary penalty of \$3,000.

a) Said payment shall be in the form of a cashier's check made payable to the Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Order.

- 1 b) No further cause for disciplinary action against the real estate license of
2 GONZALEZ occurs within two (2) years from the effective date of the
3 decision in this matter.
- 4 c) If GONZALEZ fails to pay the monetary penalty as provided above prior to
5 the effective date of this Order, the stay of the suspension shall be vacated as
6 to GONZALEZ and the order of suspension shall be immediately executed,
7 under this Order, in which event GONZALEZ shall not be entitled to any
8 repayment nor credit, prorated or otherwise, for the money paid to the
9 Department under the terms of this Order.
- 10 d) If GONZALEZ pays the monetary penalty and any other moneys due
11 under this Stipulation and if no further cause for disciplinary action
12 against the real estate license of GONZALEZ occurs within two (2)
13 years from the effective date of this Order, the entire stay hereby
14 granted in this Order shall become permanent.

15 2. Thirty (30) days of said suspension shall be stayed for two (2) years upon
16 the following terms and conditions:

- 17 a) GONZALEZ shall obey all laws, rules and regulations governing the rights,
18 duties and responsibilities of a real estate licensee in the State of California;
19 and
- 20 b) That no final subsequent determination be made, after hearing or upon
21 stipulation that cause for disciplinary action occurred within two (2) years
22 from the effective date of this Order. Should such a determination be made,
23 the Commissioner may, in his discretion, vacate and set aside the stay order
24 and re-impose all or a portion of the stayed suspension. Should no such
25 determination be made, the stay imposed herein shall become permanent.

26 3. GONZALEZ shall, within six (6) months from the effective date of this
27 Order, take and pass the Professional Responsibility Examination administered by the

1 Department, including the payment of the appropriate examination fee. If GONZALEZ fails to
2 satisfy this condition, GONZALEZ's real estate license shall automatically be suspended until
3 GONZALEZ passes the examination.

4 4. All licenses and licensing rights of GONZALEZ are indefinitely suspended
5 unless or until GONZALEZ provides proof satisfactory to the Commissioner, of having taken
6 and successfully completed the continuing education course on trust fund accounting and
7 handling specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
8 satisfaction of these requirements includes evidence that GONZALEZ has successfully
9 completed the trust fund accounting and handling continuing education course, no earlier than
10 one hundred twenty (120) days prior to the effective date of the Order in this matter. Proof of
11 completion of the trust fund accounting and handling course must be delivered to the Department
12 of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-
13 263-8785, prior to the effective date of this Order.

14 5. All licenses and licensing rights of GONZALEZ, are indefinitely suspended
15 unless or until GONZALEZ, jointly and severally with MGM and MONTES, pay the sum of
16 \$3,226.10 for the Commissioner's reasonable cost of the investigation and enforcement which
17 led to this disciplinary action. Said payment shall be in the form of a cashier's check or certified
18 check made payable to the Department of Real Estate. The investigative and enforcement costs
19 must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
20 Sacramento, CA 95813-7013, prior to the effective date of this Order.

21 6. GONZALEZ shall, jointly and severally with MGM, pay the sum of
22 \$4,405.25 for the Commissioner's cost of the audit which led to this disciplinary action.
23 GONZALEZ shall, jointly and severally with MGM, pay such cost within sixty (60) days of
24 receiving an invoice therefore from the Commissioner. The Commissioner shall indefinitely
25 suspend all licenses and licensing rights of GONZALEZ pending a hearing held in accordance
26 with Section 11500, et seq., of the Government Code, if payment is not timely made as
27 provided for herein, or as provided for in a subsequent agreement between GONZALEZ and

1 the Commissioner. The suspension shall remain in effect until payment is made in full or until
2 GONZALEZ enter into an agreement satisfactory to the Commissioner to provide for payment,
3 or until a decision providing otherwise is adopted following a hearing held pursuant to this
4 condition.

5 7. GONZALEZ shall, jointly and severally with MGM, pay the
6 Commissioner's costs, not to exceed \$5,506.56, of any audit conducted pursuant to Section
7 10148 of the Code to determine if GONZALEZ has corrected the violations described in the
8 Determination of Issues, above, and any other violations found in the audit which led to this
9 disciplinary action. In calculating the amount of the Commissioner's reasonable cost, the
10 Commissioner may use the estimated average hourly salary for all persons performing audits of
11 real estate brokers, and shall include an allocation for travel time to and from the auditor's
12 place of work. GONZALEZ shall, jointly and severally with MGM, pay such cost within sixty
13 (60) days of receiving an invoice therefore from the Commissioner detailing the activities
14 performed during the audit and the amount of time spent performing those activities. If
15 GONZALEZ fails to, jointly and severally with MGM, pay such cost within the sixty (60)
16 days, the Commissioner shall indefinitely suspend all licenses and licensing rights of
17 GONZALEZ under the Real Estate Law until payment is made in full or until GONZALEZ
18 enters into an agreement satisfactory to the Commissioner to provide for payment. Upon full
19 payment, the indefinite suspension provided for in this paragraph shall be stayed.

20 **III. As to MONTES**

21 All licenses and licensing rights of MONTES, under the Real Estate Law are
22 suspended for a period of fifteen (15) days from the effective date of this Order; provided,
23 however, that:

24 1. All fifteen (15) days of said suspension shall be stayed, upon the condition
25 that MONTES petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
26 pursuant to Section 10175.2 of the Code at a rate of \$100 for each day of the suspension for a
27 total monetary penalty of \$1,500.

1 a) Said payment shall be in the form of a cashier's check made payable to the
2 Department of Real Estate. Said check must be delivered to the Department of
3 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013,
4 prior to the effective date of this Order.

5 b) If MONTES fails to pay the monetary penalty as provided above prior to the
6 effective date of this Order, the stay of the suspension shall be vacated as to
7 MONTES and the order of suspension shall be immediately executed, under
8 this Order, in which event MONTES shall not be entitled to any repayment
9 nor credit, prorated or otherwise, for the money paid to the Department under
10 the terms of this Order.

11 2. All licenses and licensing rights of MONTES, are indefinitely suspended
12 unless or until MONTES, jointly and severally with MGM and GONZALEZ, pay the sum of
13 \$3,226.10 for the Commissioner's reasonable cost of the investigation and enforcement which
14 led to this disciplinary action. Said payment shall be in the form of a cashier's check or certified
15 check made payable to the Department of Real Estate. The investigative and enforcement costs
16 must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
17 Sacramento, CA 95813-7013, prior to the effective date of this Order.

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21 DATED

02/10/2022


ADRIANA Z. BADILAS, Counsel
Department of Real Estate

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24 I have read the Stipulation and Agreement and its terms are understood by me
25 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
26 the California Administrative Procedure Act (including but not limited to Sections 11506,
27 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently, and

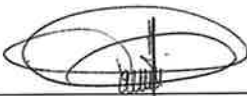
1 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
2 allegations in the Second Amended Accusation at a hearing at which I would have the right to
3 cross-examine witnesses against me and to present evidence in defense and mitigation of the
4 charges.

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

8 *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-*
9 *7007.*

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

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15 1/26/22
16 DATED


EMMA JULIETA GONZALEZ
Designated Officer for Respondent
MONTES-GONZALEZ
MANAGEMENT, INC.

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19 1/26/22
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EMMA JULIETA GONZALEZ
Respondent

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24 DATED


MELISSA MONTES
Respondent

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

DATED

1/31/2022

MARY E. WORK
Attorney for Respondents

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on **JUL 19 2022**.

IT IS SO ORDERED 6.17.21, 2022.

REAL ESTATE COMMISSIONER

DOUGLAS R. McCAULEY