

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

AUG 13 2008

DEPARTMENT OF REAL ESTATE

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7 DEPARTMENT OF REAL ESTATE

8 STATE OF CALIFORNIA

9
10 *In the Matter of the Application of*

11
12 MANUEL FERNANDO DIAZ, III

13
14 Respondent

)
) No. H- 3805 SD
)
)

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

15 I, MANUEL FERNANDO DIAZ, III, respondent herein, do hereby affirm that I have applied to the
16 Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I have
17 satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee
18 therefor.

19 I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent
20 filed by the Department of Real Estate on April 17, 2008, in connection with my application for a real estate
21 salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this Statement of
22 Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove other
23 allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real estate
24 salesperson license based upon this Stipulation and Waiver. I also understand that by filing the Statement of
25 Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a satisfactory
26 showing that I meet all the requirements for issuance of a real estate salesperson license. I further
27 understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

1 Commissioner has found that I have failed to make such a showing, thereby justifying the denial of the
2 issuance to me of an unrestricted real estate salesperson license.

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

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

13 I further understand that the following conditions, limitations, and restrictions will attach to a
14 restricted license issued by the Department of Real Estate pursuant hereto:

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

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

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

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

9 4. My restricted real estate salesperson license is issued subject to the requirements of Section
10 10153.4 of the Business and Professions Code, to wit: I am required, within eighteen (18) months
11 of the issuance of the restricted license, to submit evidence satisfactory to the Commissioner of
12 successful completion, at an accredited institution, of a course in real estate practices and one of
13 the courses listed in Section 10153.2, other than real estate principles, advanced legal aspects of
14 real estate, advanced real estate finance, or advanced real estate appraisal. If I fail to timely
15 present to the Department satisfactory evidence of successful completion of the two required
16 courses, the restricted license shall be automatically suspended effective eighteen (18) months
17 after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of
18 the restricted license, I have submitted the required evidence of course completion and the
19 Commissioner has given written notice to Respondent of the lifting of the suspension.

20 5. Pursuant to Section 10154, if I have not satisfied the requirements for an unqualified license
21 under Section 10153.4, Respondent shall not be entitled to renew the restricted license, and shall
22 not be entitled to the issuance of another license which is subject to Section 10153.4 until four
23 years after the date of the issuance of the preceding restricted license.

24 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and
25 Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax
26 number (916) 227-9458. Respondent agrees, acknowledges and understands that by electronically sending
27 to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt

1 of the faxed copy by the Department shall be as binding on respondent as if the Department had received
2 the original signed Stipulation and Waiver.

3 5/12/08
4 Dated


5 MANUEL FERNANDO DIAZ III, Respondent

6 ***

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

11 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
12 respondent MANUEL FERNANDO DIAZ III if respondent has otherwise fulfilled all of the statutory
13 requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in
14 the foregoing Stipulation and Waiver.

15 This Order is effective immediately.

16 IT IS SO ORDERED 8/12/08

17 
18 JEFF DAVI
19 Real Estate Commissioner

20 BY: Barbara J. Bigby
21 Chief Deputy Commissioner

FILED

APR 17 2008.

DEPARTMENT OF REAL ESTATE

By R. Henry

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7 Telephone: (916) 227-0781

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 MANUEL FERNANDO DIAZ III,)
13 Respondent.)

No. H-3805 SD

STATEMENT OF ISSUES

14
15 The Complainant, JOSEPH AIU, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against MANUEL FERNANDO DIAZ, III (hereinafter "Respondent"), is
18 informed and alleges as follows:
19

20 I

21 Respondent made application to the Department of Real
22 Estate of the State of California for a real estate salesperson
23 license on or about January 11, 2006, with the knowledge and
24 understanding that any license issued as a result of said
25 application would be subject to the conditions of Section 10153.4
26 of the Business and Professions Code.

27 ///

1 II

2 Complainant, JOSEPH AIU, a Deputy Real Estate
3 Commissioner of the State of California, makes this Statement of
4 Issues in his official capacity and not otherwise.

5 III

6 On or about May 6, 1994, in the Superior Court, County
7 of San Diego, Respondent was convicted of Driving Under the
8 Influence, a misdemeanor involving moral turpitude and a crime
9 which bears a substantial relationship under Section 2910, Title
10 10, California Code of Regulations, to the qualifications,
11 functions, or duties of a real estate licensee.

12 IV

13 On or about November 10, 1999, in the Superior Court,
14 County of San Diego (Case No. CN044419), Respondent was convicted
15 of a violation of Section 23152(a) of the California Vehicle Code
16 (Driving Under the Influence), a misdemeanor involving moral
17 turpitude and a crime which bears a substantial relationship
18 under Section 2910, Title 10, California Code of Regulations, to
19 the qualifications, functions, or duties of a real estate
20 licensee.

21 V

22 On or about November 10, 1999, in the Superior Court,
23 County of San Diego (Case No. CN104882), Respondent was convicted
24 of a violation of Section 23152(a) of the California Vehicle Code
25 (Driving Under the Influence), a misdemeanor involving moral
26 turpitude and a crime which bears a substantial relationship
27 under Section 2910, Title 10, California Code of Regulations, to
the qualifications, functions, or duties of a real estate
licensee.


1 VI

2 On or about March 1, 2001, in the Superior Court,
3 County of San Diego, Respondent was convicted of a violation of
4 Section 23152(a) and (b) of the California Vehicle Code (Driving
5 Under the Influence), a felony involving moral turpitude and a
6 crime which bears a substantial relationship under Section 2910,
7 Title 10, California Code of Regulations, to the qualifications,
8 functions, or duties of a real estate licensee.

9 VII

10 The crimes of which Respondent was convicted, as
11 alleged above, constitutes cause for denial of Respondent's
12 application for a real estate license under Sections 480(a) and
13 10177(b) of the California Business and Professions Code.

14 WHEREFORE, the Complainant prays that the above-
15 entitled matter be set for hearing and, upon proof of the charges
16 contained herein, that the Commissioner refuse to authorize the
17 issuance of, and deny the issuance of, a real estate salesperson
18 license to Respondent, and for such other and further relief as
19 may be proper under other provisions of law.

20 
21 JOSEPH AIU
Deputy Real Estate Commissioner

22 Dated at San Diego, California,
23 this 10 day of April, 2008.