

1 BUREAU OF REAL ESTATE
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3 Sacramento, CA 95813-7007

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FILED

6 DEC - 6 2013

7 BUREAU OF REAL ESTATE

8 By B. Contreras

10 BEFORE THE
11 BUREAU OF REAL ESTATE
12 STATE OF CALIFORNIA
13

14 * * *

15 In the Matter of the Accusation of)

NO. H-4275 SD

16 CARMEN ADRIANNA MORENO)
17 and ROD A. VILLA,)

STIPULATION AND AGREEMENT

18 Respondents.)
19)

20 It is hereby stipulated by and between Respondent ROD A. VILLA
21 ("Respondent") and the Complainant, acting by and through JOHN W. BARRON, Counsel for
22 the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation
23 filed on January 30, 2012, in this matter:

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

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

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

14 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
15 factual allegations in the Accusation filed in this proceeding are true and correct and the
16 Commissioner shall not be required to provide further evidence to prove such allegations.

17 5. It is understood by the parties that the Commissioner may adopt the
18 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and
19 sanctions on Respondent's real estate license and license rights as set forth in the below Order.
20 In the event that the Commissioner in his discretion does not adopt the Stipulation and
21 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
22 and proceeding on the Accusation under all of the provisions of the APA and shall not be bound
23 by any admission or waiver made herein.

24 6. The Order or any subsequent Order of the Commissioner made pursuant to
25 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
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1 administrative or civil proceedings by the Bureau with respect to any matters which were not
2 specifically alleged to be causes for accusation in this proceeding as admitted or withdrawn.

3 All issues which were to be contested and all evidence which was to be presented by
4 Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be
5 held in accordance with the provisions of the Administrative Procedure Act ("APA"), shall
6 instead and in place thereof be submitted solely on the basis of the provisions of this
7 Stipulation and Agreement.

8 7. This Stipulation and Agreement shall not constitute an estoppel,
9 merger o bar to any further administrative or civil proceedings by the Bureau with
10 respect to any matters which were not specifically alleged to be causes for accusation in
11 this proceeding.

12 8. Respondent further understands that by agreeing to this Stipulation and
13 Agreement, the findings set forth below in the Determination of Issues become final, and that the
14 Commission may charge said Respondent for the costs of the investigation herein. The amount
15 of such costs is \$1,919.15.

16 DETERMINATION OF ISSUES

17 By reason of the foregoing stipulations, admissions, and waivers and solely for
18 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
19 that the following Determination of Issues shall be made:

20 The acts and/or omissions of Respondent as described in the Accusation violate
21 Sections 10085.5 (collection of advance fees), 10085.6 (collection of advance fees), 10146
22 (deposit of advance fees into trust account), 10159.2 (broker supervision), 10176(e)
23 (commingling), 10177(d) (willful disregard of real estate law), 10177(h) (reasonable broker
24 supervision), 10177(j) (fraud or dishonest dealing) and/or 10177(g) (negligence), and 10178
25 (reporting by broker of discharge of salesperson) of the California Business and Professions
26 Code (the "Code"); and Sections 2725 (broker supervision), 2832 (trust fund handling), 2970
27

1 (submission of advance fee materials) and 2972 (content requirement for verified accounting) of
2 Title 10, California Code of Regulations.

3 ORDER

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

7 1. Thirty (30) days of said suspension shall be stayed upon the condition that
8 Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
9 pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total
10 monetary penalty of \$1,500.

11 a. Said payment shall be in the form of a cashier's check or certified check
12 made payable to the Recovery Account of the Real Estate Fund. Said check must be delivered
13 to the Bureau prior to the effective date of the Order in this matter.

14 b. No further cause for disciplinary action against the Real Estate license of
15 Respondent occurs within two (2) years from the effective date of the Order in this matter.

16 c. If Respondent fails to pay the monetary penalty in accordance with the
17 terms and conditions of the Order, the Commissioner may, without a hearing, order the
18 immediate execution of all or any part of the stayed suspension, in which event, Respondent
19 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
20 Bureau under the terms of this decision.

21 d. If Respondent pays the monetary penalty and if no further cause for
22 disciplinary action against the real estate license of Respondent occurs within two (2) years
23 from the effective date of the Decision herein, then the stay hereby granted shall become
24 permanent.

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

1 a. Respondent shall obey all laws, rules and regulations governing the
2 rights, duties and responsibilities of a real estate licensee in the State of California; and,

3 b. That no final subsequent determination be made, after hearing or upon
4 stipulation, that cause for disciplinary action occurred within two (2) years of the effective date
5 of this Order. Should such a determination be made, the Commissioner may, in his discretion,
6 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension.
7 Should no such determination be made, the stay imposed herein shall become permanent.

8 3. All licenses and licensing rights of Respondent are indefinitely
9 suspended unless or until Respondent provides evidence to the Commissioner sufficient to
10 demonstrate that he has repaid to Teresa Lopez the \$500 collected from her by Respondent as
11 an advance fee, as set forth in the Accusation.

12 4. Respondent shall, within six (6) months from the effective date of this
13 Order, take and pass the Professional Responsibility Examination administered by the Bureau,
14 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
15 condition, the Commissioner may order the suspension of all licenses and licensing rights of
16 Respondent until Respondent passes the examination.

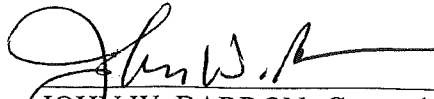
17 5. Notwithstanding any other provision of this Order, all licenses and
18 licensing rights of Respondent are indefinitely suspended unless and until he provides proof
19 satisfactory to the Commissioner that he has taken and successfully completed the continuing
20 education course on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of
21 the Code. The course must have been completed no earlier than one hundred twenty (120)
22 days prior to the effective date of this Order, and proof must be submitted prior to the effective
23 date of this Order, to prevent suspension of Respondent's license pursuant to this condition.

24 6. All licenses and licensing rights of Respondent are indefinitely
25 suspended unless or until Respondent pays the sum of \$1,919.15 for the Commissioner's
26 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
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1 payment shall be in the form of a cashier's check or certified check made payable to the Real
2 Estate Fund. Said check must be received by the Bureau prior to the effective date of the Order
3 Order in this matter.

4
5 10/22/13

6 DATED

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8 
9 JOHN W. BARRON, Counsel
10 Bureau of Real Estate

11 * * *

12 I have read the Stipulation and Agreement and its terms are understood by me
13 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
14 the California Administrative Procedure Act (including but not limited to Sections 11506,
15 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
16 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
17 allegations in the Accusation at a hearing at which I would have the right to cross-examine
18 witnesses against me and to present evidence in defense and mitigation of the charges.

19
20 8/28/13

21 DATED

22 
23 ROD A. VILLA, Respondent

24 * * *

25 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
26 this matter and shall become effective at 12 o'clock noon on JAN - 6 2014

27 IT IS SO ORDERED NOVEMBER 8, 2013.

Real Estate Commissioner


By: JEFFREY MASON
Chief Deputy Commissioner