

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 263-8670

FILED

JAN - 8 2014

BUREAU OF REAL ESTATE

By *[Signature]*

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

13 * * *

14 In the Matter of the Accusation of)	NO. H-4275 SD
)	
15)	<u>STIPULATION AND AGREEMENT</u>
16 CARMEN ADRIANNA MORENO)	
17 and ROD A. VILLA,)	
)	
18 Respondents.)	
)	

19
20 It is hereby stipulated by and between Respondent CARMEN ADRIANA
21 MORENO ("Respondent") and the Complainant, acting by and through JOHN W. BARRON,
22 Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the
23 Accusation 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),

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 she will thereby waive her 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 she will waive other rights afforded to her 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. This Stipulation is based on the allegations contained in the Accusation.
15 Respondent denies any wrongdoing, but in the interest of expedience and economy chooses not
16 to contest those allegations. It is understood by the parties that the allegations will serve as a
17 prima facie basis for the "Determination of Issues" and "Order" set forth below. The
18 Commissioner shall not be required to provide further evidence to prove such allegations.

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

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4 specifically alleged to be causes for accusation in this proceeding as admitted or withdrawn.

5 DETERMINATION OF ISSUES

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

9 The acts and/or omissions of Respondent as described in the Accusation violate
10 Sections 10142 (delivery of services agreement) and 10177(g) (negligence) of the California
11 Business and Professions Code (the "Code").

12 ORDER

13 1. All licenses and licensing rights of Respondent under the Real Estate Law are
14 revoked; provided, however, a restricted real estate salesperson's license shall be issued to
15 Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefore
16 and pays to the Bureau the appropriate fee for the restricted license within 90 days from the
17 effective date of this Decision.

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

21 (a) The restricted license issued to Respondent shall be suspended prior to
22 hearing by Order of the Commissioner in the event of Respondent's
23 conviction (including by plea of guilty or nolo contendere) to a crime
24 which is substantially related to Respondent's fitness or capacity as a real
25 estate licensee; and,

1 (b) The restricted license issued to Respondent shall be suspended prior to
2 hearing by Order of the Commissioner on evidence satisfactory to the
3 Commissioner that Respondent has violated provisions of the California
4 Real Estate Law, the Subdivided Lands Law, Regulations of the Real
5 Estate Commissioner, or conditions attaching to the restricted license.

6 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
7 real estate license nor for removal of any of the conditions, limitations or restrictions of a
8 restricted license until two (2) years have elapsed from the effective date of this Decision.

9 4. With the application for license, or with the application for transfer to a
10 new employing broker, Respondent shall submit a statement signed by the prospective
11 employing real estate broker on a form approved by the Bureau which shall certify as follows:

12 (a) That the employing broker has read the Decision which is the basis
13 for the issuance of the restricted license; and,

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

18 5. Respondent shall, within six (6) months from the effective date of this
19 Order, take and pass the Professional Responsibility Examination administered by the Bureau,
20 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
21 condition, the Commissioner shall order the suspension of all licenses and licensing rights of
22 Respondent until Respondent passes the examination.

23 6. Respondent shall, within nine (9) months from the effective date of this
24 Decision, present evidence satisfactory to the Commissioner that Respondent has, since the most
25 recent issuance of an original or renewal real estate license, taken and successfully completed the
26 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
27

1 of a real estate license. If Respondent fails to satisfy this condition, the Commissioner shall
2 order the suspension of the restricted license until the Respondent presents such evidence. The
3 Commissioner shall afford Respondent the opportunity for hearing pursuant to the APA to
4 present such evidence.

5
6 12/13/13
7 DATED

8 
JOHN W. BARRON, Counsel
Bureau of Real Estate

9
10 * * *

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
21 12/13/13
22 DATED

23 CARMEN MORENO
24 CARMEN ADRIANA MORENO, Respondent


25 ///

26 ///

27 ///

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

IT IS SO ORDERED JAN 03 2014



FILE NO. H-4275 SD