

FILED

NOV 4 2013

DEPARTMENT OF REAL ESTATE

P. O. Box 187007

Sacramento, CA 95818-7007

BUREAU OF REAL ESTATE

Telephone: (916) 227-0789

By L. Just

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

) NO. H-4341 SD

ESTEBAN G. ARVIZU,

) STIPULATION AND AGREEMENT

Respondent.

It is hereby stipulated by and between Respondent ESTEBAN G. ARVIZU,

("Respondent"), acting by and through Frank M. Buda, Esq., Counsel for Respondent, and the Complainant, acting by and through Annette E. Ferrante, Esq., Counsel for the Department of Real Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation filed on May 4, 2012, 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 submitted solely on the basis of the provisions of this Stipulation and Agreement.

2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department in this proceeding.

NO. H-4341 SD

1 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense,
5 Respondent will thereby waive Respondent's right to require the Real Estate Commissioner
6 ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in
7 accordance with the provisions of the APA and that Respondent will waive other rights
8 afforded to Respondent in connection with the hearing, such as the right to present evidence in
9 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

16 5. This Stipulation and Respondent's decision not to contest the Accusation
17 are made for the purpose of reaching an agreed disposition in this proceeding and are expressly
18 limited to this proceeding and any other proceeding or case in which the Department, the state or
19 federal government, an agency of this state, or an agency of another state is involved.

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

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

5 8. Respondent understands that by agreeing to this Stipulation and
6 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business
7 and Professions Code ("the Code"), the costs of the audit which resulted in the determination
8 that Respondent committed the trust fund violation(s) found in the Determination of Issues.
9 The amount of such costs is \$3,911.60.

10 9. Respondent further understands that by agreeing to this Stipulation and
11 Agreement, the findings set forth below in the Determination of Issues become final, and that
12 the Commissioner may charge said Respondent for the costs of any audit conducted pursuant
13 to Section 10148 of the Code to determine if the violations have been corrected. The
14 maximum costs of said audit shall not exceed \$3,911.60.

15 10. Respondent understands that by agreeing to this Stipulation and
16 Agreement, Respondent agrees to pay, pursuant to Section 10106 of the Code, the costs of the
17 investigation and enforcement of this case which resulted in the determination that Respondent
18 committed the violation(s) found in the Determination of Issues. The amount of such cost is
19 \$1,603.05.

20 DETERMINATION OF ISSUES

21 By reason of the foregoing stipulations, admissions and waivers and solely for the
22 purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
23 that the following determination of issues shall be made:

24 I.

25 The acts and omissions of Respondent ESTEBAN G. ARVIZU (herein
26 "Respondent") as described in the Accusation are grounds for the suspension or revocation of the
27 ///

1 licenses and license rights of Respondent under the provisions of Sections 10145, 10159.5,
2 10177(g), and 10177(h) of the Code, and Sections 2725, 2731, 2831, and 2832 of Title 10 of the
3 California Code of Regulations.

4 ORDER

5 All licenses and licensing rights of Respondent ESTEBAN G. ARVIZU (herein
6 "Respondent") under the Real Estate Law are suspended for a period of thirty (30) days from the
7 effective date of this Order; provided, however, that:

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

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

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

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

23 3. Notwithstanding any other provision of this Order, all licenses and
24 licensing rights of Respondent are suspended unless and until he provides proof satisfactory to
25 the Commissioner that he has taken and successfully completed the continuing education course
26 on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code. The

27 ///

1 course must have been completed no earlier than one hundred twenty (120) days prior to the
2 effective date of this Order, and proof must be submitted prior to the effective date of this Order,
3 to prevent suspension of Respondent's license pursuant to this condition.

4 4. Respondent shall pay the sum of \$3,911.60 for the Commissioner's cost
5 of the audit which led to this disciplinary action. Respondent shall pay such cost within sixty
6 (60) days of receiving an invoice therefore from the Commissioner. The Commissioner may
7 indefinitely suspend all licenses and licensing rights of Respondent pending a hearing held in
8 accordance with Section 11500, et seq., of the Government Code, if payment is not timely
9 made as provided for herein, or as provided for in a subsequent agreement between Respondent
10 and the Commissioner. The suspension shall remain in effect until payment is made in full or
11 until Respondent enters into an agreement satisfactory to the Commissioner to provide for
12 payment, or until a decision providing otherwise is adopted following a hearing held pursuant
13 to this condition.

14 5. Respondent shall pay the Commissioner's costs, not to exceed
15 \$3,911.60, of any audit conducted pursuant to Section 10148 of the Code to determine if
16 Respondent has corrected the violations described in the Determination of Issues, above, and
17 any other violations found in the audit which led to this disciplinary action. In calculating the
18 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
19 average hourly salary for all persons performing audits of real estate brokers, and shall include
20 an allocation for travel time to and from the auditor's place of work. Respondent shall pay
21 such cost within sixty (60) days of receiving an invoice therefore from the Commissioner
22 detailing the activities performed during the audit and the amount of time spent performing
23 those activities. If Respondent fails to pay such cost within the sixty (60) days, the
24 Commissioner may indefinitely suspend all licenses and licensing rights of Respondent under
25 the Real Estate Law until payment is made in full or until Respondent enters into an agreement
26 satisfactory to the Commissioner to provide for payment. Upon full payment, the indefinite
27 suspension provided for in this paragraph shall be stayed.

1 6. All licenses and licensing rights of Respondent are indefinitely
2 suspended unless or until Respondent pays the sum of \$1,603.05 for the Commissioner's
3 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
4 payment shall be in the form of a cashier's check or certified check made payable to the
5 Department of Real Estate.

6
7 1-10-13

8 DATED

9 
10 Annette E. Ferrante, Esq.
11 Counsel for Department of Real Estate
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1 ***

2 I have read the Stipulation and Agreement and its terms are understood by me
3 and are agreeable and acceptable to me. I understand that I am waiving rights given to me by
4 the California Administrative Procedure Act (including but not limited to Sections 11506,
5 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and
6 voluntarily waive those rights, including the right of requiring the Commissioner to prove the
7 allegations in the Accusation at a hearing at which I would have the right to cross-examine
8 witnesses against me and to present evidence in defense and mitigation of the charges.
9 Respondent can signify acceptance and approval of the terms and conditions of this Stipulation
10 and Agreement by faxing a copy of the signature page, as actually signed by Respondent, to
11 the Department at fax number (916) 227-9458. Respondent agrees, acknowledges and
12 understands that by electronically sending to the Department a fax copy of Respondent's actual
13 signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the
14 Department shall be as binding on Respondent as if the Department had received the original
15 signed Stipulation and Agreement.

16 1/8/13

17 DATED

18 ESTEBAN G. ARVIZU,
19 Respondent

20 ***

21 I have reviewed this Stipulation and Agreement and Order as to form and
22 content and have advised my client accordingly.

23 1-10-13

24 DATED

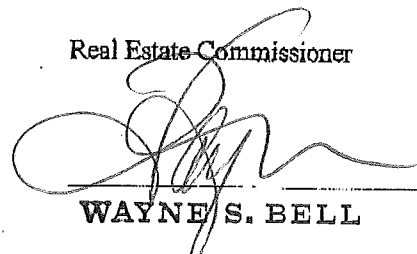
25 Frank M. Buda, Esq.,
26 Attorney for Respondent
27 ESTEBAN G. ARVIZU

The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent ESTEBAN G. ARVIZU, and shall become effective at
12 o'clock noon on NOV 25 2013.

IT IS SO ORDERED

3/22/2013

Real Estate Commissioner



WAYNE S. BELL