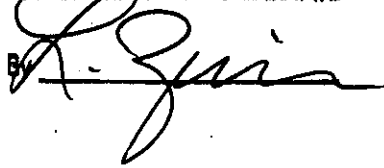


1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4
5 Telephone: (916) 227-0789
6

FILED
MAY 25 2007

DEPARTMENT OF REAL ESTATE

By 

7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9 * * *

10 In the Matter of the Accusation of)	No. H-4639 SAC
11)	
12 MICHAEL NAGAL BALLESTEROS,)	OAH No. N-2007010593
13)	
14 Respondent.)	<u>STIPULATION AND AGREEMENT</u>

15 It is hereby stipulated by and between Respondent
16 MICHAEL NAGAL BALLESTEROS (hereinafter "Respondent"),
17 individually and by and through Edgardo Gonzalez, Respondent's
18 attorney of record herein, and the Complainant, acting by and
19 through Angela L. Cash, Counsel for the Department of Real
20 Estate, as follows for the purpose of settling and disposing of
21 the First Amended Accusation filed on March 23, 2007
22 (hereinafter "the Accusation"):

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

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

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

7 3. On January 11, 2007, Respondent filed a Notice of
8 Defense pursuant to Section 11505 of the Government Code for the
9 purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that Respondent
12 understands that by withdrawing said Notice of Defense
13 Respondent will thereby waive Respondent's right to require the
14 Commissioner to prove the allegations in the Accusation at a
15 contested hearing held in accordance with the provisions of the
16 APA and that Respondent will waive other rights afforded to
17 Respondent in connection with the hearing such as the right to
18 present evidence in defense of the allegations in the Accusation
19 and the right to cross-examine witnesses.

20 4. Respondent, pursuant to the limitations set forth
21 below, hereby admits that the factual allegations in the
22 Accusation are true and correct and stipulates and agrees that
23 the Real Estate Commissioner shall not be required to provide
24 further evidence of such allegations.

25 ///

26 ///

27 ///

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 his decision in this matter, thereby imposing the penalty and
4 sanctions on Respondent's real estate license and license rights
5 as set forth in the "Order" below. In the event that the
6 Commissioner in his discretion does not adopt the Stipulation
7 and Agreement, it shall be void and of no effect, and Respondent
8 shall retain the right to a hearing and proceeding on the
9 Accusation under all the provisions of the APA and shall not be
10 bound by any admission or waiver made herein.

11 6. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation and
13 Agreement shall not constitute an estoppel, merger or bar to any
14 further administrative or civil proceedings by the Department of
15 Real Estate with respect to any matters which were not
16 specifically alleged to be causes for accusation in this
17 proceeding.

18 DETERMINATION OF ISSUES

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

23 I

24 The acts and omissions of Respondent as described in
25 the Accusation are grounds for the suspension or revocation of
26 the licenses and license rights of Respondent under the

27 ///

1 provisions of Sections 490 and 10177(b) of the California
2 Business and Professions Code (hereinafter "the Code").

3 ORDER

4 I

5 All licenses and licensing rights of Respondent
6 MICHAEL NAGAL BALLESTEROS under the Real Estate Law are revoked;
7 provided, however, a restricted real estate salesperson license
8 shall be issued to said Respondent pursuant to Section 10156.5
9 of the Business and Professions Code if Respondent makes
10 application therefor and pays to the Department of Real Estate
11 the appropriate fee for the restricted license within 90 days
12 from the effective date of this Decision. The restricted license
13 issued to Respondent shall be subject to all of the provisions
14 of Section 10156.7 of the Business and Professions Code and to
15 the following limitations, conditions and restrictions imposed
16 under authority of Section 10156.6 of that Code:

17 1. The restricted license issued to Respondent may
18 be suspended prior to hearing by Order of the Real Estate
19 Commissioner in the event of Respondent's conviction or plea of
20 nolo contendere to a crime which is substantially related to
21 Respondent's fitness or capacity as a real estate licensee.

22 2. The restricted license issued to Respondent may
23 be suspended prior to hearing by Order of the Real Estate
24 Commissioner on evidence satisfactory to the Commissioner that
25 Respondent has violated provisions of the California Real Estate
26 Law, the Subdivided Lands Law, Regulations of the Real Estate
27 Commissioner or conditions attaching to the restricted license.

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

6 4. Respondent shall, within nine (9) months from the
7 effective date of the Decision, present evidence satisfactory to
8 the Real Estate Commissioner that Respondent has, since the most
9 recent issuance of an original or renewal real estate license,
10 taken and successfully completed the continuing education
11 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
12 for renewal of a real estate license. If Respondent fails to
13 satisfy this condition, the Commissioner may order the
14 suspension of the restricted license until the Respondent
15 presents such evidence. The Commissioner shall afford
16 Respondent the opportunity for a hearing pursuant to the
17 Administrative Procedure Act to present such evidence.

18 5. Respondent shall submit with any application for
19 license under an employing broker, or any application for
20 transfer to a new employing broker, a statement signed by the
21 prospective employing real estate broker on a form approved by
22 the Department of Real Estate which shall certify:

- 23 (a) That the employing broker has read the Decision
24 of the Commissioner which granted the right to a
25 restricted license; and

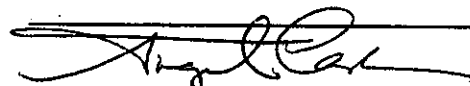
26 ///

27 ///

(b) That the employing broker will exercise close supervision over the performance by the restricted licensee relating to activities for which a real estate license is required.

4/3/07

DATED



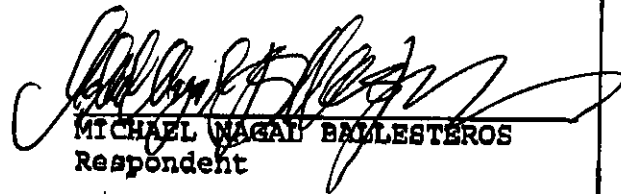
ANGELA L. CASH, Counsel
DEPARTMENT OF REAL ESTATE

* * *

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

3/26/07

DATED



MICHAEL NAGAI BALLESTEROS
Respondent

///

///

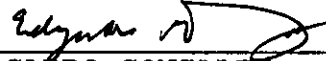
///

///

1 I have reviewed the Stipulation and Agreement as to
2 form and content and have advised my client accordingly.
3

4 3-26-07

DATED



EDGARDO GONZALEZ

Attorney for Respondent

6 * * *

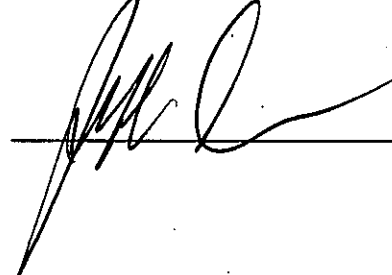
7 The foregoing Stipulation and Agreement for Settlement
8 is hereby adopted by the Real Estate Commissioner as his
9 Decision and Order and shall become effective at 12 o'clock noon
10 on JUN 15 2007.

11 IT IS SO ORDERED

5/23/07

12 JEFF DAVI

13 Real Estate Commissioner

14 
15
16
17
18
19
20
21
22
23
24
25
26
27

1 ANGELA L. CASH, Counsel (SBN 230882)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0805 (Direct)

FILED
MAR 23 2007

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) H-4639 SAC
12 MICHAEL NAGAL BALLESTEROS,) FIRST AMENDED
13 Respondent.) ACCUSATION
14)

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for cause of the
17 First Amended Accusation against MICHAEL NAGAL BALLESTEROS
18 (hereinafter "Respondent"), is informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "the Code") as a real
23 estate salesperson.

24 II

25 Complainant, Charles W. Koenig, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation
27 against Respondent in his official capacity.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

III

On or about July 29, 2005, in the Superior Court of the State of California, County of Santa Clara, Case Number CC593597, Respondent was convicted of the crime of Unauthorized Recording Device In a Theater in violation of Penal Code Section 653(z), a misdemeanor and a crime involving moral turpitude, which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of Respondent's license under the Real Estate Law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a Decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, and for such other and further relief as may be proper under provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California
this 22nd day of March, 2007.

1 ANGELA L. CASH, Counsel (SBN 230882)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0805 (Direct)

FILED
JAN -2 2007

DEPARTMENT OF REAL ESTATE

[Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 MICHAEL NAGAL BALLESTEROS,) H-4639 SAC
13 Respondent.) ACCUSATION
14)

15 The Complainant, Charles W. Koenig, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against MICHAEL NAGAL BALLESTEROS (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 I

20 Respondent is presently licensed and/or has license
21 rights under the Real Estate Law, Part 1 of Division 4 of the
22 Business and Professions Code (hereinafter "the Code") as a real
23 estate broker.

24 II

25 Complainant, Charles W. Koenig, a Deputy Real Estate
26 Commissioner of the State of California, makes this Accusation
27 against Respondent in his official capacity.

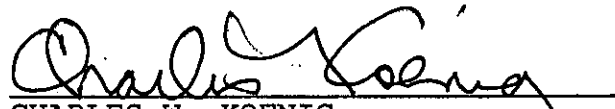
III

On or about July 29, 2005, in the Superior Court of the State of California, County of Santa Clara, Case Number CC593597, Respondent was convicted of the crime of Unauthorized Recording Device in a Theater in violation of Penal Code Section 653(z), a misdemeanor and a crime involving moral turpitude, which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of Respondent's license under the Real Estate Law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a Decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, and for such other and further relief as may be proper under provisions of law.


CHARLES W. KOENIG
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 7th day of December, 2006.