

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187000
3 Sacramento, CA 95818-7000
4 Telephone: (916) 227-0789

FILED
JUN 06 2007

DEPARTMENT OF REAL ESTATE

By Anne Shaw

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-4647 SAC
13 OFELIA OLIVA NAIDOO,) STIPULATION AND AGREEMENT
14 Respondent.)

15 It is hereby stipulated by and between Respondent
16 OFELIA OLIVA NAIDOO, acting in pro per, and the Complainant,
17 acting by and through Michael B. Rich, Counsel for the
18 Department of Real Estate, as follows for the purpose of
19 settling and disposing of the Accusation filed on January 9,
20 2007, in this matter ("the Accusation"):

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

DRE No. H-4647 SAC

OFELIA OLIVA NAIDOO

1 this Stipulation and Agreement.

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

6 3. On February 27, 2007, Respondent filed a Notice
7 of Defense pursuant to Section 11505 of the Government Code for
8 the purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that
11 Respondent understands that by withdrawing said Notice of
12 Defense Respondent will thereby waive Respondent's right to
13 require the Commissioner to prove the allegations in the
14 Accusation at a contested hearing held in accordance with the
15 provisions of the APA and that Respondent will waive other
16 rights afforded to Respondent in connection with the hearing
17 such as the right to present evidence in defense of the
18 allegations in the Accusation and the right to cross-examine
19 witnesses.

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

26 5. It is understood by the parties that the Real
27 Estate Commissioner may adopt the Stipulation and Agreement as

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

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

15 DETERMINATION OF ISSUES

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

20 I

21 The acts and omissions of Respondent OFELIA OLIVA
22 NAIDOO described in the Accusation are grounds for the
23 suspension or revocation of the licenses and license rights of
24 Respondent under the provisions of Sections 10176(a) and (i)
25 and 10177(g) of the California Business and Professions Code.

26 ///

27 //

- 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

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

1 has violated provisions of the California Real
2 Estate Law, the Subdivided Lands Law,
3 Regulations of the Real Estate Commissioner or
4 conditions attaching to the restricted license.

- 5 3. Respondent shall not be eligible to apply for
6 the issuance of an unrestricted real estate
7 license nor for the removal of any of the
8 conditions, limitations or restrictions of a
9 restricted license until two (2) years have
10 elapsed from the effective date of this
11 Decision.
- 12 4. Respondent shall submit with any application for
13 license under an employing broker, or any
14 application for transfer to a new employing
15 broker, a statement signed by the prospective
16 employing real estate broker on a form approved
17 by the Department of Real Estate which shall
18 certify:
- 19 (a) That the employing broker has read the
20 Decision of the Commissioner which granted
21 the right to a restricted license; and,
- 22 (b) That the employing broker will exercise close
23 supervision over the performance by the
24 restricted licensee relating to activities
25 for which a real estate license is required.
- 26 5. Respondent shall, within nine months from the
27 effective date of the Decision, present evidence

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

15
16
17 DATED 4/26/07

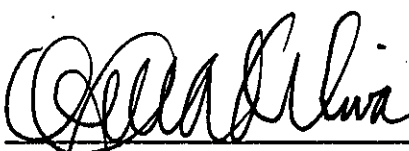
Michael B. Rich
MICHAEL B. RICH, Counsel
Department of Real Estate

18
19 * * *

20 I have read the Stipulation and Agreement and its
21 terms are understood by me and are agreeable and acceptable to
22 me. I understand that I am waiving rights given to me by the
23 California Administrative Procedure Act (including but not
24 limited to Sections 11506, 11508, 11509, and 11513 of the
25 Government Code), and I willingly, intelligently, and
26 voluntarily waive those rights, including the right of
27 requiring the Commissioner to prove the allegations in the

1 Accusation at a hearing at which I would have the right to
2 cross-examine witnesses against me and to present evidence in
3 defense and mitigation of the charges.

4
5
6 April 23, 2007
7 DATED

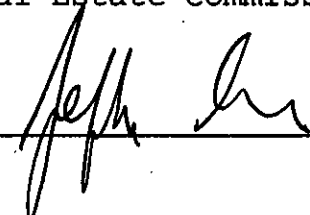
8 
9 OFELIA OLIVA NAIDOO
10 Respondent

11 * * *

12 The foregoing Stipulation and Agreement is hereby
13 adopted by as my Decision in this matter as to Respondent
14 OFELIA OLIVA NAIDOO and shall become effective at 12 o'clock
15 noon on JUN 26 2007.

16 IT IS SO ORDERED S 23, 2007.

17 JEFF DAVI
18 Real Estate Commissioner

19 
20
21
22
23
24
25
26
27

1 MICHAEL B. RICH, Counsel
2 State Bar No. 84257
3 Department of Real Estate
4 P. O. Box 187007
5 Sacramento, CA 95818-7007

6 Telephone: (916) 227-0789

FILED
JAN 09 2007

DEPARTMENT OF REAL ESTATE

By S. El

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

NO. H-4647 SAC

12 OFELIA OLIVA NAIDOO,)

ACCUSATION

13 Respondent.)

14
15 The Complainant, CHARLES W. KOENIG, a Deputy Real
16 Estate Commissioner of the State of California, for cause of
17 Accusation against OFELIA OLIVA NAIDOO (hereinafter
18 "Respondent"), is informed and alleges as follows:

19 I

20 The Complainant, CHARLES W. KOENIG, a Deputy Real
21 Estate Commissioner of the State of California, makes this
22 Accusation against Respondent in his official capacity.

23 II

24 Respondent is presently licensed and/or has license
25 rights under the Real Estate Law, Part 1 of Division 4 of the

26 ///

27 ///

1 California Business and Professions Code (hereinafter "Code"),
2 as a real estate salesperson.

3 III

4 At all times herein mentioned, Real Estate America, a
5 licensed corporate real estate broker, employed Respondent in
6 the capacity of a licensed real estate salesperson.

7 IV

8 At all times mentioned herein during the three year
9 period next preceding to the filing of this Accusation, on or
10 about January 20, 2005, on behalf of Abineshvar and Saileshni
11 Dayal (hereinafter "Buyers"), Respondent submitted a RESIDENTIAL
12 PURCHASE AGREEMENT AND JOINT ESCROW INSTRUCTIONS (hereinafter
13 "Agreement") to Century 21 Auburn Realty, Inc, a licensed
14 corporate real estate broker by and through its licensed real
15 estate salesperson employee, Michelle Houston (hereinafter
16 "Sellers' Agent") on behalf of Allan and Darlene Gonzalez
17 (hereinafter "Sellers) relating to real property located at 5361
18 Shortway Drive in Sacramento, California (hereinafter
19 "property").

20 V

21 Pursuant to counteroffers, on or about January 23,
22 2005, the Sellers signed the Agreement accepting the offer on the
23 Property.

24 VI

25 The Agreement provided, in pertinent part, that ". . .
26 Buyer has given a deposit in the amount of \$2,000 to the agent
27 submitting the offer by personal check . . . which shall be held

1 uncashed until Acceptance and then deposited within 3 business
2 days after Acceptance with Escrow Holder." However, Respondent
3 had not received a deposit from the Buyers in any amount at the
4 time the Agreement was presented or accepted.

5 VII

6 Respondent also failed to place a \$2,000 deposit with
7 the subsequently designated escrow company or with any other
8 escrow company within three (3) business days of acceptance of
9 the offer in favor of the Sellers.

10 VIII

11 Respondent's representation that she was in receipt of
12 the \$2,000 deposit was false, and was known by Respondent to be
13 false at the time she made it.

14 IX

15 The acts and/or omissions of Respondent described
16 above are grounds for the revocation or suspension of all
17 Respondent's licenses under Sections 10176(a) and (i) and/or
18 10177(g) of the Code.

19 ///

20 ///

21 ///

22 ///

23 ///

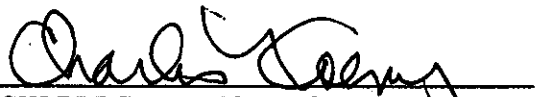
24 ///

25 ///

26 ///

27 ///

1 WHEREFORE, Complainant prays that a hearing be
2 conducted on the allegations of this Accusation and that upon
3 proof thereof, a decision be rendered imposing disciplinary
4 action against all licenses and license rights of Respondent,
5 under the Real Estate Law (Part 1 of Division 4 of the Business
6 and Professions Code) and for such other and further relief as
7 may be proper under other provisions of law.

8
9 
10 CHARLES W. KOENIG
11 Deputy Real Estate Commissioner

12 Dated at Sacramento, California,
13 this 1st day of December, 2006.
14
15
16
17
18
19
20
21
22
23
24
25
26
27