

1 Department of Real Estate
2 320 West 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 (213)576-6982

FILED

MAY 23 2019

DEPT. OF REAL ESTATE

By *Zni gn*

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation Against)
12 EDGAR ALEJANDRO HERRERA,)
13 Respondent.)

No. H-05056 SD

STIPULATION AND AGREEMENT

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15 It is hereby stipulated by and between EDGAR ALEJANDRO HERRERA
16 ("Respondent"), acting on his own behalf, and the Complainant, acting by and through Amelia
17 V. Vetrone, Counsel for the Department of Real Estate, as follows for the purpose of settling
18 and disposing of the Accusation filed on or about March 18, 2019, in this matter:

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

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

27 3. On March 22, 2019, the Department of Real Estate received Respondent's

1 Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of
2 requesting a hearing on the allegations in the Accusation. Respondent hereby freely and
3 voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands
4 that by withdrawing said Notice of Defense he will thereby waive his right to require the
5 Commissioner to prove the allegations in the Accusation at a contested hearing held in
6 accordance with the provisions of the APA and that he will waive other rights afforded to him
7 in connection with the hearing such as the right to present evidence in defense of the allegations
8 in the Accusation and the right to cross-examine witnesses.

9 4. Respondent, pursuant to the limitations set forth below, hereby admits that
10 the factual allegations in Paragraph 3 of the Accusation filed in this proceeding are true and
11 correct and the Real Estate Commissioner shall not be required to provide further evidence of
12 such allegations.

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

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

24 DETERMINATION OF ISSUES

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

1 The conduct of Respondent, as described in the Accusation is grounds for the
2 suspension or revocation of all of the real estate licenses and license rights of Respondent under
3 the provisions of Section 10177(b) of the California Business and Professions Code ("Code").

4 ORDER

5 All licenses and licensing rights of Respondent EDGAR ALEJANDRO
6 HERRERA under the Real Estate Law are revoked; provided, however, a restricted real estate
7 salesperson license shall be issued to Respondent pursuant to Code Section 10156.5 if
8 Respondent makes application therefor and pays to the Department of Real Estate the
9 appropriate fee for the restricted license within 90 days from the effective date of this Decision.

10 The restricted license issued to Respondent shall be subject to all of the provisions of Code
11 Section 10156.7 and to the following limitations, conditions and restrictions imposed under
12 authority of Code Section 10156.6:

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

17 2. The restricted license issued to Respondent may be suspended prior to
18 hearing by Order of the Real Estate Commissioner on evidence satisfactory to the
19 Commissioner that Respondent has violated provisions of the California Real Estate Law, the
20 Subdivided Lands Law, Regulations of the Real Estate Commissioner or conditions attaching
21 to the restricted license.

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

25 4. Respondent shall submit with any application for license under an employing
26 broker, or any application for transfer to a new employing broker, a statement signed by the
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1 prospective employing real estate broker on a form approved by the Department of Real Estate
2 which shall certify:


3 (a) That the employing broker has read the Decision of the Commissioner which
4 granted the right to a restricted license; and

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

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

17 6. Respondent shall notify the Commissioner in writing within 72 hours of any
18 arrest by sending a certified letter to the Commissioner at Department of Real Estate, Post
19 Office Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of
20 Respondent's arrest, the crime for which Respondent was arrested, and the name and address of
21 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
22 constitute an independent violation of the terms of the restricted license and shall be grounds
23 for the suspension or revocation of that license.

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25
26 DATED: 4-30-19



Amelia V. Vetrone
Counsel for the
Department of Real Estate

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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
10 DATED: 4/25/19


11 _____
12 EDGAR ALEJANDRO HERRERA
13 Respondent

14 * * *

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16 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
17 this matter, and shall become effective at 12 o'clock noon on _____.

18 IT IS SO ORDERED _____.

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20 DANIEL J. SANDRI
21 Acting Real Estate Commissioner
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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
10 DATED: _____

11 _____
EDGAR ALEJANDRO HERRERA
Respondent

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14 * * *

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16 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
17 this matter, and shall become effective at 12 o'clock noon on **JUN 12 2019**

18 IT IS SO ORDERED May 16, 2019.

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20 DANIEL J. SANDRI
Acting Real Estate Commissioner

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