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5 F.	FILED
1	DEC - 2 2020
2	Department of Real Estate 320 W. 4th Street, Suite 350
_	Los Angeles, CA 90013-1105 Telephone: (213) 576-6982
3	Totophone. (215) 570-0982
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8	BEFORE THE DEPARTMENT OF REAL ESTATE
9	STATE OF CALIFORNIA
10	***
11	In the Matter of the Accusation Against) DRE No. H-05139 SD
12	ASTON C. ORIHUELA,
13	Respondent.
14) <u>IN SETTLEMENT AND ORDER</u>
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16	It is hereby stipulated by and between Respondent ASTON C. ORIHUELA
17	(sometimes referred to as "Respondent"), acting by and through his attorney Frank M. Buda,
18	Esq., and the Complainant, acting by and through Judith B. Vasan, Counsel for the Department
19	of Real Estate, as follows for the purpose of settling and disposing of the Accusation
20	("Accusation") filed on March 18, 2020, in this matter:
21	1. All issues which were to be contested and all evidence which was to be
22	presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
23	was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),
24	shall instead and in place thereof be submitted solely on the basis of the provisions of this
25	Stipulation and Agreement ("Stipulation").
26	2. Respondent has received, read and understands the Statement to Respondent,
27	the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
	STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER
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¹ ("Department") in this proceeding.

2 3. On April 7, 2020, Respondent filed a Notice of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the 3 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. 4 5 Respondent acknowledges that he understands that by withdrawing said Notice of Defense 6 Respondent thereby waives his right to require the Commissioner to prove the allegations in the 7 Accusation at a contested hearing held in accordance with the provisions of the APA and that Respondent will waive other rights afforded to him in connection with the hearing such as the 8 9 right to present evidence in his defense, and the right to cross-examine witnesses.

4. Respondent, pursuant to the limitation set forth below, hereby admits that the
 factual allegations as set forth in the Accusation, in Case No. H-05139 SD, filed in this
 proceeding are true and correct and the Real Estate Commissioner shall not be required to
 provide further evidence of such allegations.

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

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

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STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER -2-

1	DETERMINATION OF ISSUES	
2	By reason of the foregoing stipulations and waivers and solely for the purpose of	
3	settlement of the pending Accusation without a hearing, it is stipulated and agreed that the	
4	following determination of issues shall be made:	
5	The conduct, acts or omissions of Respondent ASTON C. ORIHUELA, as set	
6	forth in the Accusation, are a basis for discipline of Respondent's licenses and licensing rights as	
7	violations of the Real Estate Law, Part 1 of Division 4 of the Business and Professions Code	
8	sections 490, 10177(b), and 10186.2.	
9	<u>ORDER</u>	
10	WHEREFORE, THE FOLLOWING ORDER is hereby made:	
11	I.	
12	All licenses and licensing rights of Respondent ASTON C. ORIHUELA under the	
13	Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall	
14	be issued to Respondent pursuant to Section 10156.5 of the Code if Respondent makes	
15	application therefor and pays to the Department the appropriate fee for the restricted license	
16	within 90 days from the effective date of this Decision and Order. The restricted license issued to	
17	Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the	
18	following limitations, conditions and restrictions imposed under authority of Section 10156.6 of	
19	that Code:	
20	1. The restricted license issued to Respondent may be suspended prior to hearing	
21	by Order of the Commissioner in the event of Respondent's conviction or plea of nolo	
22	contendere to a crime which is substantially related to Respondent's fitness or capacity as a real	
23	estate licensee.	
24	2. The restricted license issued to Respondent may be suspended prior to hearing	
25	by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that	
26	Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands	
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	STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER $-3-$	
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Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
 license.

3 3. Respondent shall not be eligible to petition for the issuance of any unrestricted
4 real estate license nor for removal of any of the conditions, limitations or restrictions of a
5 restricted license until two (2) years have elapsed from the effective date of this Decision and
6 Order. Respondent shall not be eligible to apply for any unrestricted licenses until all restrictions
7 attaching to the license have been removed

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 ⁹ broker, or any application for transfer to a new employing broker, a statement signed by the
 ¹⁰ prospective employing real estate broker on a form approved by the Department which shall
 ¹¹ certify:

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

(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.

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II.

18 Respondent shall notify the Commissioner in writing within seventy-two (72) hours of any arrest by sending a certified letter to the Commissioner at the Department of Real 19 20 Estate, P.O. Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of 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 for 23 24 the suspension and revocation of that license. 25 111

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STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER -4-

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2	All licenses and licensing rights of Respondent are indefinitely suspended unless
3	or until Respondent pays the sum of \$1,028.40 for the Commissioner's reasonable costs of the
4	investigation (\$493.40) and enforcement (\$535.00), which led to this disciplinary action. Said
5	payment shall be in the form of a cashier's check made payable to the Department of Real
6	Estate. The investigative and enforcement costs must be delivered to the Department of Real
7	Estate, Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective
8	date of this Decision and Order.
9	DATED: 9-18-2020 20
10	Judith B // asan, Counsel for
11	Department of Real Estate
12	* * *
13	EXECUTION OF THE STIPULATION
14	I have read the Stipulation, have discussed it with my counsel, and its terms are
15	understood by me and are agreeable and acceptable to me. I understand that I am waiving rights
16	given to me by the California Administrative Procedure Act (including but not limited to
17	Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently
18	and voluntarily waive those rights, including the right of requiring the Commissioner to prove
19	the allegations in the Accusation at a hearing at which I would have the right to cross-examine
20	witnesses against me and to present evidence in defense and mitigation of the charges.
21	Respondent shall <u>mail the original</u> signed signature page of the stipulation herein
22	to Judith B. Vasan, Attention: Legal Section, Department of Real Estate, 320 W. Fourth St.,
23	Suite 350, Los Angeles, California 90013-1105.
24	In the event of time constraints before an administrative hearing, Respondent can
25	signify acceptance and approval of the terms and conditions of this Stipulation and Agreement
26	by emailing a scanned copy of the signature page, as actually signed by Respondent, to the
27	Department counsel assigned to this case. Respondent agrees, acknowledges, and understands
	STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER 5

that by electronically sending the Department a scan of Respondent's actual signature as it
 appears on the Stipulation and Agreement that receipt of the scan by the Department shall be
 binding on Respondent as if the Department had received the original signed Stipulation and
 Agreement.

Respondent's signature below constitutes acceptance and approval of the terms
 and conditions of this Stipulation. Respondent agrees, acknowledges and understands that by
 signing this Stipulation, Respondent is bound by its terms as of the date of such signatures and
 that this agreement is not subject to rescission or amendment at a later date except by a separate
 Decision and Order of the Real Estate Commissioner.

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12	DATED: 1/17/2020 0620
13	ASTON C. ORIHUELA Respondent
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15	DATED: 1/1/10 than M have
16	Frank M. Buda Respondent's Counsel
17	Approved as to Form and Content
19	***
19	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
19 20	The foregoing Stipulation and Agreement is hereby adopted as my Decision as to Respondent ASTON C. ORIHUELA and shall become effective at 12 o'clock noon on
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