

1 Department of Real Estate
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FILED
MAR 18 2013
DEPARTMENT OF REAL ESTATE
By [Signature]

8 **DEPARTMENT OF REAL ESTATE**
9 **STATE OF CALIFORNIA**

10 * * *

11 *In the Matter of the Application of*) NO. H-5972 SAC
12 MARIO JOHN GATTAVARA,) **STIPULATION AND WAIVER**
13) (Per Business and Professions Code § 10100.4)
14 Respondent.)

15 MARIO JOHN GATTAVARA ("Respondent") does hereby affirm that on May 22,
16 2012 he applied to the Department of Real Estate for a real estate broker license and that to the best
17 of his knowledge he satisfied all of the statutory requirements for the issuance of the license,
18 including the payment of the fee therefore.

19 FACTUAL BASIS

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21 On or about August 6, 2007, in the Superior Court of the State of California, County
22 of Butte, Case Number SCR59758, Respondent was convicted of violating section 23152(b) of the
23 Vehicle Code (driving with a blood alcohol level at or above .08%), a misdemeanor which bears a
24 substantial relationship under section 2910, title 10, California Code of Regulations ("the
25 Regulations") to the qualifications, functions or duties of a real estate licensee.

26 On or about January 2, 2001, in the Superior Court of the State of California, County
27 of Butte, Case Number SCR33564, Respondent was convicted of violating section 459 of the Penal

Code (second degree commercial burglary), a misdemeanor which bears a substantial relationship under section 2910 of the Regulations to the qualifications, functions or duties of a real estate licensee.

GROUND FOR DENIAL

Respondent's criminal convictions, as described above, constitute grounds under sections 480(a) and 10177(b) of the Business and Professions Code ("the Code") for the denial of Respondent's application for an unrestricted real estate license.

TERMS AND CONDITIONS

Respondent understands that the Real Estate Commissioner may hold a hearing regarding the matters discussed above for the purpose of requiring further proof of his honesty and truthfulness and to prove other allegations therein, or that the Real Estate Commissioner may waive the hearing and grant Respondent a restricted real estate broker license based upon this Stipulation and Waiver. Respondent also understand that by entering into this Stipulation and Waiver, he will be stipulating that the Real Estate Commissioner has found that Respondent has failed to make a showing that he meets all the requirements for issuance of a real estate broker license thereby justifying the denial of the issuance to him of an unrestricted real estate broker license.

Respondent hereby admits that the above Factual Basis is true and correct and requests that the Real Estate Commissioner issue a restricted real estate broker license to Respondent under the authority of section 10100.4 and 10156.5 of the Code. I understand that any such restricted real estate broker license will be issued subject to the provisions of and limitations of sections 10156.6 and 10156.7 of the Code.

Respondent is aware that by signing this Stipulation and Waiver, and if this Stipulation and Waiver is accepted by the Real Estate Commissioner, Respondent is waiving his right to a hearing and the opportunity to present evidence at the hearing to establish his rehabilitation in order to obtain an unrestricted real estate broker license. Respondent is not

1 waiving his right to a hearing and to further proceedings to obtain a restricted or unrestricted real
2 estate broker license if this Stipulation and Waiver is not accepted by the Commissioner.

3 Respondent understands that this Stipulation and Waiver, which was executed
4 pursuant to the authority under section 10100.4 and 10156.5 of the Code, is considered discipline
5 by the Department of Real Estate.

6 Respondent further understand that the following conditions, limitations and
7 restrictions will attach to a restricted real estate broker license issued by the Department of Real
8 Estate pursuant hereto:

9 1. The license shall not confer any property right in the privileges to be
10 exercised and the Real Estate Commissioner may by appropriate order suspend the
11 right to exercise any privileges granted under this restricted real estate broker license
12 in the event of:

13 a. Respondent's conviction (including a plea of nolo contendere) of a
14 crime which bears a substantial relationship to Respondent's fitness or capacity as a
15 real estate licensee; or

16 b. The receipt of evidence that Respondent has violated provisions of
17 the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real
18 Estate Commissioner, or conditions attaching to this restricted license.

19 2. Respondent shall not be eligible to apply for the issuance of an unrestricted
20 real estate license nor the removal of any of the conditions, limitations or restrictions
21 attaching to the restricted real estate license until two years have elapsed from the
22 date of issuance of the restricted real estate license to Respondent.

23 3. Respondent shall notify the Commissioner in writing within 72 hours of any
24 arrest by sending a certified letter to the Commissioner at the Department of Real
25 Estate, Post Office Box 187000, Sacramento, CA 95818-7000. The letter shall set
26 forth the date of Respondent's arrest, the crime for which Respondent was arrested
27 and the name and address of the arresting law enforcement agency. Respondent's

1 failure to timely file written notice shall constitute an independent violation of the
2 terms of the restricted real estate license and shall be grounds for the suspension or
3 revocation of that license.

4 Respondent has read the Stipulation and Waiver and its terms are understood by

5 Respondent and agreeable and acceptable to Respondent. Respondent understands that he is
6 waiving rights given to him by the California Administrative Procedure Act (including, but not
7 limited to, California Government Code sections 11504, 11506, 11508, 11509, and 11513), and
8 willingly, intelligently, and voluntarily waives those rights, including, but not limited to, the right to
9 a hearing on a Statement of Issues at which he would have the right to cross-examine witnesses
10 against him and to present evidence in defense and mitigation of the charges.

11 Respondent can signify acceptance and approval of the terms and conditions of this
12 Stipulation and Waiver by faxing a copy of the signature page, as actually signed by Respondent, to
13 the Department at fax number (916) 227-9458. Respondent agrees, acknowledges and understands
14 that by electronically sending to the Department a fax copy of his actual signature as it appears on
15 the Stipulation and Waiver, that receipt of the faxed copy by the Department shall be as binding on
16 Respondent as if the Department had received the original signed Stipulation and Waiver.

17
18 11-09-2012

19 Dated

20 
21 MARIO JOHN GATTAVARA, Respondent

22 I have read the foregoing Stipulation and Waiver signed by Respondent. I am
23 satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness
24 of Respondent need not be called and that it will not be inimical to the public interest to issue a
25 restricted real estate broker license to Respondent.

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1 Therefore, IT IS HEREBY ORDERED that a restricted real estate broker license be
2 issued to Respondent MARIO JOHN GATTAVARA if Respondent has otherwise fulfilled all of
3 the statutory requirements for licensure. The restricted broker license shall be limited,
4 conditioned, and restricted as specified in the foregoing Stipulation and Waiver.

5 This Order is effective immediately.

6 IT IS SO ORDERED

1/15/13

8 Real Estate Commissioner

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11 By: AWET P. KIDANE