

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8679
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FILED

APR 21 2014

BUREAU OF REAL ESTATE

By *J. Uno*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of) BRE No. H-6003 SAC
13 YOLANDA GOYENCHEA,)
14) STIPULATION AND AGREEMENT
15 Respondent.) IN SETTLEMENT AND ORDER
16)

17 It is hereby stipulated by and between YOLANDA GOYENCHEA (Respondent),
18 and her counsel, and the Complainant, acting by and through Richard K. Uno, Counsel for the
19 Bureau of Real Estate, as follows for the purpose of settling and disposing of the First Amended
20 Accusation filed on January 27, 2014, 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 First Amended Accusation,
23 which hearing was to be held in accordance with the provisions of the Administrative Procedure
24 Act (APA), shall instead and in place thereof be submitted solely on the basis of the provisions of
25 this Stipulation and Agreement In Settlement and Order (Order).

26 2. Respondent has received, read and understand the Statement to
27 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real

1 Estate in this proceeding.

2 3. On or about August 13, 2013, each of Respondent filed a Notice of
3 Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a
4 hearing on the allegations in the First Amended Accusation. Respondent hereby freely and
5 voluntarily withdraws said Notice of Defense. Respondent acknowledges that she understands
6 that by withdrawing said Notice of Defense she will thereby waive her right to require the
7 Commissioner to prove the allegations in the First Amended Accusation at a contested hearing
8 held in accordance with the provisions of the APA and that she will waive other rights afforded
9 to her in connection with the hearing such as the right to present evidence in defense of the
10 allegations in the First Amended Accusation and the right to cross-examine witnesses.

11 4. This Stipulation is based on the factual allegations contained in the First
12 Amended Accusation. In the interest of expediency and economy, Respondent chose not to
13 contest these factual allegations, but to remain silent and understand that, as a result thereof,
14 these factual statements will serves as a prima facie basis for the "Determination of Issues" and
15 "Order" set forth below. The Real Estate Commissioner shall not be required to provide further
16 evidence to prove such allegations.

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

25 6. The Order or any subsequent Order of the Real Estate Commissioner made
26 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
27 estoppel, merger or bar to any further administrative or civil proceedings by the Bureau of

1 Real Estate with respect to any matters which were not specifically alleged to be causes for
2 accusation in this proceeding.

3 7. Respondent understands that by agreeing to this Stipulation and
4 Agreement in Settlement and Order, Respondent agrees to pay, pursuant to Section 10106 of the
5 Business and Professions Code (Code), the cost of the investigation and enforcement which
6 resulted in the determination that Respondent committed the violations found in the
7 Determination of Issues. The amount of said costs is \$5,510.00.

8 DETERMINATION OF ISSUES

9 By reason of the foregoing stipulations, admissions and waivers, and solely for
10 the purpose of settlement of the pending First Amended Accusation without a hearing, it is
11 stipulated and agreed that the acts and/or omissions of Respondent, as described in the First
12 Amended Accusation, constitute grounds for the suspension or revocation of the licenses and
13 license rights of Respondent under the provisions of Sections 10185, 10185.5, 10131, 10131 (d),
14 10176 (b), 10176 (i), 10177 (d) and 10177 (g) of the Code.

15 ORDER

16 1. All licenses and licensing rights of Respondent, under the Real Estate Law
17 are revoked; provided, however, a restricted real estate salesperson license shall be issued to
18 Respondent, pursuant to Section 10156.5 of the Code, if Respondent makes application
19 therefore and pays to the Bureau of Real Estate the appropriate fee for the restricted license
20 within 90 days from the effective date of this Decision. The restricted license issued to
21 Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the
22 following limitations, conditions and restrictions imposed under authority of Section 10156.6 of
23 the Code:

24 a. The license shall not confer any property right in the privileges to
25 be exercised, and the Real Estate Commissioner may by appropriate order suspend, prior to a
26 hearing, the right to exercise any privileges granted under this restricted license in the event of:

27 (1) The conviction of Respondent (including a plea

1 of nolo contendere) of a crime which is substantially related to Respondent's fitness or
2 capacity as a real estate licensee; or

3 (2) The receipt of evidence that Respondent has
4 violated Provisions of the California Real Estate Law, the Subdivided Lands Law,
5 Regulations of the Real Estate Commissioner, or conditions attaching to this restricted
6 license.

7 b. Respondent shall not be eligible to apply for the issuance of an
8 unrestricted real estate license nor the removal of any of the conditions, limitations, or
9 restrictions attaching to the restricted license until two (2) years have elapsed from the date of
10 issuance of the restricted license to Respondent.

11 c. With the application for license, or with the application for transfer
12 to a new employing broker, Respondent shall submit a statement signed by the prospective
13 employing real estate broker on a form approved by the Bureau which shall certify as follows:

14 (1) That the employing broker has read the Decision which is
15 the basis for the issuance of a restricted license; and

16 (2) That the employing broker will carefully review all
17 transaction documents prepared by the restricted licensee and otherwise exercise close
18 supervision over the licensee's performance of acts for which a license is required,

19 d. Respondent shall, within nine (9) months from the effective date of
20 this Order, present evidence satisfactory to the Real Estate Commissioner that Respondent has,
21 since the most recent issuance of an original or renewal real estate license, taken and successfully
22 completed the continuing education requirements as specified in subdivision (a) of Section
23 10170.5 of the Business and Professions Code. If Respondent fails to satisfy this condition, the
24 Commissioner shall order the suspension of the restricted license until Respondent presents such
25 evidence.

26 e. Respondent shall, within six (6) months from the effective date of
27 this Order, take and pass the Professional Responsibility Examination administered by the

1 Bureau including the payment of the appropriate examination fee. If Respondent fails to satisfy
2 this condition, Respondent's real estate license shall automatically be suspended until
3 Respondent passes the examination.

4 2. The restricted real estate salesperson license and license rights of
5 Respondent under the Real Estate Law are suspended for a period of sixty (60) days from the
6 date that Respondent, is issued her restricted real estate salesperson license; provided, however,
7 that if Respondent petitions, thirty (30) days of said suspension shall be stayed upon condition
8 that:

9 a. Respondent pays a monetary penalty pursuant to Section 10175.2
10 of the Code at the rate of \$100.00 per day for thirty (30) days of the suspension for a total
11 monetary penalty of \$3,000.00;

12 b. Said payment shall be only in the form of a cashier's check made
13 payable to the Bureau of Real Estate. Said check must be delivered to the Bureau of Real
14 Estate, Legal Section at P.O. Box 137007, Sacramento, California 95813-7007, prior to the
15 effective date of this Order;

16 c. Respondent shall obey all laws, rules and regulations governing the
17 rights, duties and responsibilities of a real estate licensee in the State of California and

18 d. No further cause for disciplinary action against the real estate
19 license of Respondent occurs within two (2) years from the effective date of the Decision in this
20 matter.

21 3. If Respondent fails to pay the monetary penalty in accordance with the
22 terms and conditions of the Decision, the suspension shall go into effect automatically and
23 remain in effect until Respondent pays the monetary penalty in full.

24 4. If Respondent pays the monetary penalty, and if no further cause for
25 disciplinary action against the real estate license of Respondent occurs within two (2) years from
26 the effective date of the Decision, the stay hereby granted shall become permanent.

1 5. All licenses and licensing rights of Respondent are indefinitely suspended
 2 unless or until Respondent pays the sum of \$5,510.00 for the Commissioner's reasonable cost
 3 of the investigation and enforcement which led to this disciplinary action. Said payment shall
 4 be in the form of a cashier's check made payable to the Bureau of Real Estate, Legal Section at
 P.O. Box 137007, Sacramento, CA 95813-7007, prior to the effective date of this Order.

5 6. All licenses and licensing rights of Respondent are indefinitely suspended
 6 unless or until Respondent provides proof satisfactory to the Commissioner, of having paid the
 7 following: \$845.00 to Alfonso M. and Lyna D., \$412.00 to Gloria Y. and Edgar P. and \$850.00
 8 to Daniel S. as restitution to the victims. Proof of satisfaction of this requirement includes: a
 9 certified copy of the satisfaction of judgment; a letter from an attorney or certified public
 10 accountant testifying under penalty of Perjury to the fact that said judgment has been paid by
 11 Respondent; a copy of a cancelled check to the victim(s); and/or a letter from the victim(s)
 12 attesting that repayment of funds has been received. Proof of payment should be delivered to
 13 the Bureau of Real Estate, Legal Section at P.O. Box 137007, Sacramento, CA 95813-7007 or
 14 by fax at 916-263-3767.

3/18/14

DATED

Richard K. Uno

RICHARD K. UNO, Counsel III
BUREAU OF REAL ESTATE

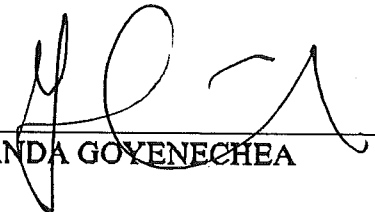
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 22 I have read the Stipulation and Agreement in Settlement and Order and its terms
 23 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
 24 rights given to me by the California Administrative Procedure Act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

1 right to cross-examine witnesses against me and to present evidence in defense and mitigation
2 of the charges.

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7 3/18/14

8 DATED

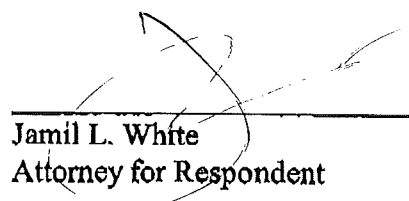
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12 
13 YOLANDA GOYENECHEA

14 * * *

15 *I have reviewed this Stipulation and Agreement as to form and content and have
16 advised my client accordingly.*

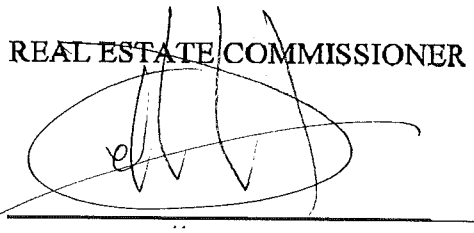
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18 3/18/14

19 DATED

20
21 
22 Jamil L. White
23 Attorney for Respondent

24 The foregoing Stipulation and Agreement In Settlement and Order is hereby
25 adopted by the Real Estate Commissioner as his Decision and Order and shall become effective
26 at 12 o'clock noon on MAY 17 2014

27 IT IS SO ORDERED APR 08 2014

28 REAL ESTATE COMMISSIONER
29 

30 By: JEFFREY MASON
31 Chief Deputy Commissioner