

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

Telephone: (916) 263-8670  
Fax: (916) 263-3767

**FILED**

JAN 09 2018

BUREAU OF REAL ESTATE

By B. Nicholas

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

\* \* \*

In the Matter of the Accusation of	)	BRE No. H-6402 SAC
	)	
NORCAL VENTURE REAL ESTATE AND	)	<u>STIPULATION AND AGREEMENT</u>
INVESTMENTS, INC., RAFAEL SIERRA	)	<u>IN SETTLEMENT AND ORDER</u>
and <u>FRANCISCO MACIAS</u> ,	)	
	)	As to FRANCISCO MACIAS only
_____ Respondents	)	

It is hereby stipulated by and between FRANCISCO MACIAS (MACIAS), sometimes herein, Respondent, his counsel, Patrick Riazzi, and the Complainant, acting by and through Richard K. Uno, Counsel for the Bureau of Real Estate (Bureau); as follows for the purpose of settling and disposing of the Accusation filed on June 6, 2016, in this matter:

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

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

3. Respondent filed a Notice of Defense pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of Defense he will thereby waive his right to require the Real Estate Commissioner (Commissioner) to prove the allegations in the Accusation at a contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in connection with the hearing such as the right to present evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

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

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

7. Respondent understands that by agreeing to this Stipulation, Respondent agrees to pay, pursuant to Section 10106 of the Code, 50% of the cost of the investigation (total \$8,885.20) which resulted in the violation(s) found in the Determination of Issues. The amount of costs that Respondent agrees to pay is \$4,442.60.

8. Respondent agrees to testify at the hearing on the Accusation on file herein and to otherwise undertake reasonable efforts to cooperate with BRE Counsel to affect such testimony. The Parties agree that Respondent's obligation to undertake reasonable efforts to cooperate with BRE Counsel in testifying at the hearing is in consideration of the Bureau's settlement offer.

#### DETERMINATION OF ISSUES

By reason of the foregoing stipulations, admissions and waivers, and solely for the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds for the suspension or revocation of the licenses and license rights of Respondent under the provisions of Sections 10177(g) of the Code.

#### ORDER

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

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

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

3. MACIAS shall not be eligible to apply for the issuance of any unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions of a restricted until two (2) years have elapsed from the effective date of this Stipulation. MACIAS shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the license have been removed.

4. MACIAS shall, within nine (9) months from the effective date of this Stipulation, present evidence satisfactory to the Commissioner that MACIAS has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license. If MACIAS fails to satisfy this condition, MACIAS's real estate license shall automatically be suspended until MACIAS presents evidence satisfactory to the Commissioner of having taken and successfully completed the continuing education requirements. Proof of completion of the continuing education courses must be delivered to the Bureau of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013.

5. That MACIAS makes himself available to testify at the hearing on this matter, now set for December 4 and 5 2017, or any other dates, should this matter be continued.

12/5/17

DATED



RICHARD K. UNO, Counsel III  
BUREAU OF REAL ESTATE

\* \* \*

I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving

rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges. I understand that I must sign and return this Stipulation by fax to (916) 263-3767 or by email to Richard.Uno@dre.ca.gov. I further agree to mail the original Stipulation no later than five days after signing it to: Bureau of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007. I understand that failure to mail the original back may result in this matter going to hearing.

11-27-2017

DATED

  
FRANCISCO MACIAS

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

11-28-2017

DATED

  
PATRICK RIAZI

The foregoing Stipulation and Agreement In Settlement and Order is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on JAN 30 2018.

IT IS SO ORDERED

1/5/18

WAYNE S. BELL  
REAL ESTATE COMMISSIONER



By: DANIEL J. SANDRI  
Chief Deputy Commissioner