

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 263-8670

FILED

NOV 13 2017
BUREAU OF REAL ESTATE
By B. Nicholas

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:

12 DELGADO PROPERTY MANAGEMENT
13 INC., and MARK GREGORY DELGADO,

14 Respondents.

No. H-6515 SAC

STIPULATION AND AGREEMENT
IN SETTLEMENT AND ORDER

15
16 It is hereby stipulated by and between DELGADO PROPERTY
17 MANAGEMENT INC. ("DELGADO INC."), and MARK GREGORY DELGADO
18 ("DELGADO") (collectively referred to herein as "Respondents"), represented by Counsel
19 Joshua A. Rosenthal, and the Complainant, acting by and through Jason D. Lazark, Counsel
20 for the Bureau of Real Estate ("Bureau"), as follows for the purpose of settling and disposing
21 the Accusation filed on March 16, 2017, in this matter:

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

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1 2. Respondents have received, read, and understands the allegations in the
2 Accusation, Statement to Respondent, and the Discovery Provisions of the APA filed by the
3 Bureau in this proceeding.

4 3. Respondents filed Notices of Defense pursuant to Section 11505 of the
5 Government Code for the purpose of disputing the allegations in the Accusation and requesting a
6 hearing. Respondents hereby freely and voluntarily withdraw said Notices of Defense.
7 Respondents acknowledge that Respondents understand that by withdrawing said Notices of
8 Defense, Respondents will thereby waive Respondents' rights to require the Real Estate
9 Commissioner ("Commissioner") to prove the allegations in the Accusation at a contested
10 hearing held in accordance with the provisions of the APA, and that Respondents will waive
11 other rights afforded to Respondents in connection with the hearing such as the right to present
12 evidence in defense of the allegations in the Accusation and the right to cross-examine witnesses.

13 4. Respondents, pursuant to the limitations set forth below, hereby admit that
14 the factual allegations as set forth in the Accusation filed in this proceeding are true and correct
15 and the Commissioner shall not be required to provide further evidence of such allegations.

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

23 6. The Order, or any subsequent Order of the Commissioner made pursuant
24 to this Stipulation, shall not constitute an estoppel, merger, or bar to any further administrative or
25 civil proceedings by the Bureau with respect to any matters which were not specifically alleged in
26 Accusation H-6515 SAC.

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II.

The acts and omissions of DELGADO, as described in the Accusation, violate Sections 10177(d), 10177(g), and 10177(h) of the Code, in conjunction with Sections 10145, 10159.2, 10177(d) of the Code, and Sections 2725, 2831.2 and 2832.1 of the Title 10, of the California Code of Regulations ("the Regulations").

ORDER

I. AS TO DELGADO INC.

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

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

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

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II. AS TO DELGADO

1. All licenses and licensing rights of DELGADO under the Real Estate Law are revoked; provided, however, a restricted real estate broker license shall be issued to DELGADO pursuant to Section 10156.5 of the Code if DELGADO makes application therefore and pays to the Bureau the appropriate fee for the restricted license within 90 days from the effective date of this Decision.

2. The restricted license issued to DELGADO 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 that Code:

(a) The restricted license issued to DELGADO shall be suspended prior to hearing by Order of the Commissioner in the event of DELGADO's conviction (including by plea of guilty or nolo contendere) to a crime which is substantially related to DELGADO's fitness or capacity as a real estate licensee; and,

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

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

4. DELGADO shall, within nine (9) months from the effective date of this Decision, present evidence satisfactory to the Commissioner that DELGADO has, since the most recent issuance of an original or renewal real estate license, taken and successfully completed the

1 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal
2 of a real estate license. If DELGADO fails to satisfy this condition, DELGADO's real estate
3 license shall automatically be suspended until DELGADO presents evidence satisfactory to the
4 Commissioner of having taken and successfully completed the continuing education
5 requirements. Proof of completion of the continuing education courses must be delivered to:
6 Bureau of Real Estate, Flag Section, P. O. Box 137013, Sacramento, CA 95813-7013.

7 5. DELGADO shall, within six (6) months from the effective date of this
8 Decision and Order, take and pass the Professional Responsibility Examination administered by
9 the Bureau, including the payment of the appropriate examination fee. If DELGADO fails to
10 satisfy this condition, DELGADO's real estate license shall automatically be suspended until
11 DELGADO passes the examination.

12 6. All licenses and licensing rights of DELGADO are indefinitely suspended
13 unless or until DELGADO provides proof satisfactory to the Commissioner, of having taken and
14 successfully completed the continuing education course on trust fund accounting and handling
15 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
16 satisfaction of these requirements includes evidence that DELGADO has successfully completed
17 the trust fund accounting and handling continuing education course, no earlier than one hundred
18 twenty (120) days prior to the effective date of the Decision and Order in this matter. Proof of
19 completion of the trust fund accounting and handling course must be delivered to the Bureau of
20 Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-
21 263-8785, prior to the effective date of this Decision and Order.

22 **III. AS TO BOTH DELGADO INC. AND DELGADO**

23 7. All licenses and licensing rights of DELGADO INC. and DELGADO are
24 indefinitely suspended unless or until DELGADO INC. and DELGADO, jointly and severally,
25 pay the sum of \$873.45 for the Commissioner's reasonable costs of the investigation and
26 enforcement which led to this disciplinary action. Said payment shall be in the form of a
27 cashier's check or certified check made payable to the Bureau of Real Estate. The investigative

1 and enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
2 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.


3 8. DELGADO INC. and DELGADO shall jointly and severally pay the sum of
4 \$5,073.00 for the Commissioner's cost of the audit which led to this disciplinary action.
5 DELGADO INC. and DELGADO shall jointly and severally pay such cost within sixty (60)
6 days of receiving an invoice therefore from the Commissioner. The Commissioner shall
7 indefinitely suspend all licenses and licensing rights of DELGADO INC. and DELGADO
8 pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if
9 payment is not timely made as provided for herein, or as provided for in a subsequent
10 agreement between DELGADO INC. and DELGADO and the Commissioner. The suspension
11 shall remain in effect until payment is made in full or until DELGADO INC. and DELGADO
12 enter into an agreement satisfactory to the Commissioner to provide for joint and several
13 payment, or until a decision providing otherwise is adopted following a hearing held pursuant
14 to this condition.

15 9. DELGADO INC. and DELGADO shall jointly and severally pay the
16 Commissioner's costs, not to exceed \$6,341.25, of any audit conducted pursuant to Section
17 10148 of the Code to determine if DELGADO INC. and DELGADO has corrected the
18 violations described in the Determination of Issues, above, and any other violations found in
19 the audit which led to this disciplinary action. In calculating the amount of the Commissioner's
20 reasonable cost, the Commissioner may use the estimated average hourly salary for all persons
21 performing audits of real estate brokers, and shall include an allocation for travel time to and
22 from the auditor's place of work. DELGADO INC. and DELGADO shall jointly and severally
23 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner
24 detailing the activities performed during the audit and the amount of time spent performing
25 those activities. If DELGADO INC. and DELGADO fail to pay such cost within the sixty (60)
26 days, the Commissioner shall indefinitely suspend all licenses and licensing rights of
27 DELGADO INC. and DELGADO under the Real Estate Law until payment is made in full or

1 until DELGADO INC. and DELGADO enter into an agreement satisfactory to the
2 Commissioner to provide for payment. Upon full payment, the indefinite suspension provided
3 for in this paragraph shall be stayed.

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5 10-3-17

6 DATED

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JASON D. LAZARK, Counsel
Bureau of Real Estate

9 I have read the Stipulation, discussed it with my counsel, and its terms are
10 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights
11 given to me by the APA, and I willingly, intelligently and voluntarily waive those rights,
12 including the right of requiring the Commissioner to prove the allegations in the Accusation at a
13 hearing at which I would have the right to cross-examine witnesses against me and to present
14 evidence in defense and mitigation of the charges.

15 Respondents and Respondents' attorney further agree to send the original signed
16 Stipulation by mail to the following address no later than one (1) week from the date the
17 Stipulation is signed by Respondents and Respondents' attorney: *Bureau of Real Estate, Legal*
18 *Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondents and Respondents'
19 attorney understand and agree that if they fail to return the original signed Stipulation by the due
20 date, Complainant retains the right to set this matter for hearing.

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23 DELGADO PROPERTY MANAGEMENT INC.
Respondent

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25 8/9/17
26 DATED

By:


Mark Gregory Delgado

RESIGNED FOR WEST SIGNATURE

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8/2/17

DATED


MARK GREGORY DELGADO
Respondent RE-SIGNED FOR NET SIGNATURE

I have reviewed the Stipulation as to form and content and have advised my client accordingly.

DATED

JOSHUA A. ROSENTHAL
Attorney for Respondents

The foregoing Stipulation is hereby adopted as my Decision and Order and shall become effective at 12 o'clock noon on _____.

IT IS SO ORDERED _____

WAYNE S. BELL
Real Estate Commissioner

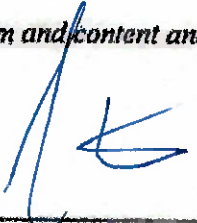
1
2 8/2/17
3 DATED


4 MARK GREGORY DELGADO
5 Respondent

6 ***

7 *I have reviewed the Stipulation as to form and content and have advised my*
8 *client accordingly.*

9 8/10/17
10 DATED



11 JOSHUA A. ROSENTHAL
12 Attorney for Respondents

13 ***

14 The foregoing Stipulation is hereby adopted as my Decision and Order and shall
15 become effective at 12 o'clock noon on DEC 04 2017.

16 IT IS SO ORDERED 11/7/17

17 WAYNE S. BELI,
18 Real Estate Commissioner

19 
20 By: DANIEL J. SANDRI
21 Chief Deputy Commissioner