

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

4 Telephone: (916) 576-7843

FILED

JUL 23 2021

DEPARTMENT OF REAL ESTATE
By B. Nicholas

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of:)	Case No. H-7002 SAC
)	
12 LUIS ZUBIATE and LISA PIRES,)	<u>STIPULATION AND AGREEMENT</u>
)	<u>IN SETTLEMENT AND ORDER</u>
13 Respondents.)	
)	

15 It is hereby stipulated by and between Respondent LUIS ZUBIATE
16 ("ZUBIATE"), acting by and through Mary E. Work, counsel for ZUBIATE, and LISA PIRES
17 ("PIRES"), acting by and through Frank M. Buda, counsel for PIRES, (ZUBIATE and PIRES
18 are collectively referred to herein as "Respondents"), and the Complainant, acting by and
19 through Jason D. Lazark, Counsel for the Department of Real Estate, as follows for the purpose
20 of settling and disposing of the Accusation filed on November 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 Respondents at a formal hearing on the Accusation, which
23 hearing was to be held in accordance with the provisions of the Administrative Procedure Act
24 ("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 ("Stipulation and Agreement").

26 2. Respondents have received, read and understand the Statement to
27 Respondent, the Discovery Provisions of the APA, and the Accusation filed by the Department

1 of Real Estate in this proceeding.

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

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

15 5. This Stipulation and Agreement is made for the purpose of reaching an
16 agreed disposition of this proceeding and is expressly limited to this proceeding and any other
17 proceeding or case in which the Department, the state or federal government, any agency of
18 this state, or an agency of another state is involved.

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

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1 the provisions of Sections 10145, 10176(e), 10177(d), 10177(g), and 10177(h), of the Code, and
2 Sections 2725, 2832, 2832.1, and 2835 of Title 10 of the California Code of the Regulations
3 (“the Regulations”).

4 The acts and/or omissions of PIRES as described in the Accusation are grounds
5 for the suspension or revocation of the licenses and license rights of PIRES under the provisions
6 of Sections 10176(e), and 10177(d) of the Code, and Section 2835 of the Regulations.

7 ORDER

8 I.

9 AS TO ZUBIATE

10 All licenses and licensing rights of ZUBIATE under the Real Estate Law are
11 suspended for a period of one hundred twenty (120) days from the effective date of this Order;
12 provided, however, that:

13 1. Thirty (30) days of said suspension shall be stayed upon the condition that
14 ZUBIATE petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty
15 pursuant to Section 10175.2 of the Code, at a rate of \$100 for each day of the suspension, for a
16 total monetary penalty of \$3,000.00.

17 a. Said payment shall be in the form of a cashier’s check made payable to
18 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
19 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
20 Order.

21 b. No further cause for disciplinary action against the real estate license
22 of ZUBIATE occurs within two (2) years from the effective date of the Order in this matter.

23 c. If ZUBIATE fails to pay the monetary penalty in accordance with the
24 terms and conditions of the Decision, the Commissioner may, without a hearing, order the
25 immediate execution of all or any part of the stayed suspension, in which event, ZUBIATE shall
26 not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
27 Department under the terms of this decision.

1 d. If ZUBIATE pays the monetary penalty, and if no further cause for
2 disciplinary action against the real estate license of ZUBIATE occurs within two (2) years
3 from the effective date of the Decision herein, then the stay hereby granted shall become
4 permanent.

5 2. The remaining ninety (90) days of said suspension shall also be stayed for two
6 (2) years upon the following terms and conditions:

7 a. ZUBIATE shall obey all laws, rules and regulations governing the
8 rights, duties and responsibilities of a real estate licensee in the State of California, and

9 b. That no final subsequent determination be made, after hearing or
10 upon stipulation, that cause for disciplinary action occurred within two (2) years from the
11 effective date of this Order. Should such a determination be made, the Commissioner may, in
12 his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
13 suspension. Should no such determination be made, the stay imposed herein shall become
14 permanent.

15 3. Notwithstanding any other provision of this Order, all licenses and license
16 rights of ZUBIATE are suspended unless and until he provides proof satisfactory to the
17 Commissioner that he has taken and successfully completed the continuing education course on
18 Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code. The
19 course must have been completed no earlier than one hundred twenty (120) days prior to the
20 effective date of this Order, and proof must be submitted prior to the effective date of this
21 Order, to prevent suspension of his license pursuant to this condition.

22 4. ZUBIATE shall, within nine (9) months from the issuance of the Order, take
23 and pass the Professional Responsibility Examination administered by the Department,
24 including the payment of the appropriate examination fee. All licenses and licensing rights of
25 ZUBIATE shall be indefinitely suspended unless or until ZUBIATE passes the examination.

26 5. ZUBIATE shall pay the sum of \$18,266.71 for the Commissioner's cost of
27 the audit which led to this disciplinary action. ZUBIATE shall pay such cost within sixty (60)

1 1. Thirty (30) days of said suspension shall be stayed upon the condition that
2 PIRES petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant
3 to Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension, for a total
4 monetary penalty of \$1,500.00.

5 a. Said payment shall be in the form of a cashier's check made payable to
6 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,
7 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
8 Order.

9 b. No further cause for disciplinary action against the real estate license
10 of PIRES occurs within two (2) years from the effective date of the Order in this matter.

11 c. If PIRES fails to pay the monetary penalty in accordance with the
12 terms and conditions of the Decision, the Commissioner may, without a hearing, order the
13 immediate execution of all or any part of the stayed suspension, in which event, PIRES shall not
14 be entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department
15 under the terms of this decision.

16 d. If PIRES pays the monetary penalty, and if no further cause for
17 disciplinary action against the real estate license of PIRES occurs within two (2) years from the
18 effective date of the Decision herein, then the stay hereby granted shall become permanent.

19 2. The remaining thirty (30) days of said suspension shall also be stayed for two
20 (2) years upon the following terms and conditions:

21 a. PIRES shall obey all laws, rules and regulations governing the rights,
22 duties and responsibilities of a real estate licensee in the State of California, and

23 b. That no final subsequent determination be made, after hearing or
24 upon stipulation, that cause for disciplinary action occurred within two (2) years from the
25 effective date of this Order. Should such a determination be made, the Commissioner may, in
26 his discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
27

1 suspension. Should no such determination be made, the stay imposed herein shall become
2 permanent.

3 3. Notwithstanding any other provision of this Order, all licenses and license
4 rights of PIRES are suspended unless and until she provides proof satisfactory to the
5 Commissioner that she has taken and successfully completed the continuing education course
6 on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code. The
7 course must have been completed no earlier than one hundred twenty (120) days prior to the
8 effective date of this Order, and proof must be submitted prior to the effective date of this
9 Order, to prevent suspension of her license pursuant to this condition.

10 4. PIRES shall, within nine (9) months from the issuance of the Order, take and
11 pass the Professional Responsibility Examination administered by the Department, including the
12 payment of the appropriate examination fee. All licenses and licensing rights of PIRES shall be
13 indefinitely suspended unless or until PIRES passes the examination.


14 III.

15 AS TO ZUBIATE AND PIRES JOINTLY AND SEVERALLY

16 All licenses and licensing rights of Respondents, are indefinitely suspended
17 unless or until Respondents, jointly and severally, pay the sum of \$2,563.30 for the
18 Commissioner's reasonable cost of the investigation and enforcement which led to this
19 disciplinary action. Said payment shall be in the form of a cashier's check made payable to the
20 Department of Real Estate. The investigative and enforcement costs must be delivered to the
21 Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013,
22 prior to the effective date of this Order.

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24 4/19/21

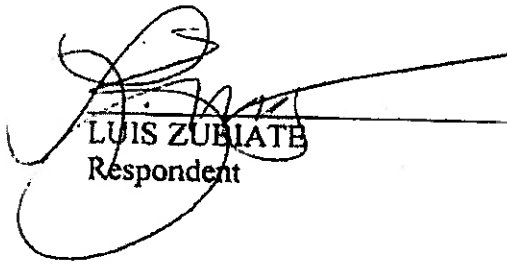
25 DATED

26 
27 JASON D. LAZARK, Counsel
Department of Real Estate

1 I have read the Stipulation and Agreement in Settlement and Order and its terms
2 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
3 rights given to me by the California Administrative Procedure Act (including but not limited to
4 Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
5 intelligently, and voluntarily waive those rights, including the right of requiring the
6 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
7 right to cross-examine witnesses against me and to present evidence in defense and mitigation
8 of the charges.

9 I further agree to send the original signed Stipulation and Agreement by mail to
10 the following address no later than one (1) week from the date the Stipulation and Agreement
11 is signed by me and my attorney: *Department of Real Estate, Legal Section, P.O. Box 137007,*
12 *Sacramento, California 95813-7007.* I understand and agrees that if they fail to return the
13 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
14 this matter for hearing.

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17 4/16/21
18 DATED

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21 LUIS ZUBIATE
22 Respondent

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28 DATED

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30 LISA PIRES
31 Respondent

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9 I further agree to send the original signed Stipulation and Agreement by mail to
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11 is signed by me and my attorney: *Department of Real Estate, Legal Section, P.O. Box 137007,*
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13 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
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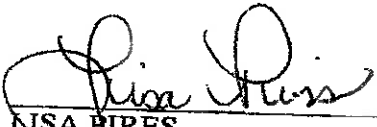
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DATED

4/16/2021

DATED

LUIS ZUBIATE
Respondent



LISA HIRES
Respondent

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

DATED

4-16-21

DATED

Mary E. Work
Attorney for Respondent
LUIS ZUBIATE

Frank M. Buda
Frank M. Buda
Attorney for Respondent
LISA PIRES

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on AUG 13 2021

IT IS SO ORDERED 6-29-21, 2021.

REAL ESTATE COMMISSIONER

Douglas R. McCauley
DOUGLAS R. McCAULEY