

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

4 Telephone: (916) 576-8700
5 Email: Richard.Uno@dre.ca.gov

FILED

JUL 31 2024

DEPARTMENT OF REAL ESTATE
By J. Taggart

8
9 BEFORE THE DEPARTMENT OF REAL ESTATE
10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) DRE No. H-7250 SAC
13)
14 A C O N, INC. and,)
15 DAVID ALBERT NOVELO,)
16 Respondents.) STIPULATION AND AGREEMENT
17 IN SETTLEMENT AND ORDER

18 It is hereby stipulated by and between A C O N, INC. (ACON), and DAVID
19 ALBERT NOVELO (NOVELO), collectively Respondents, their counsel Mary E. Work, and
20 the Complainant, acting by and through Richard K. Uno, Counsel for the Department of Real
21 Estate (Department); as follows for the purpose of settling and disposing of the Accusation filed
22 on November 13, 2023, in this matter:

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

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

1 Real Estate in this proceeding.

2 3. Respondents filed a Notice 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 Notice of Defense. Respondents
5 acknowledge that they understand that by withdrawing said Notice of Defense they will thereby
6 waive their right to require the Real Estate Commissioner (Commissioner) to prove the
7 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
8 APA and that he will waive other rights afforded to them in connection with the hearing such as
9 the right to present evidence in defense of the allegations in the Accusation and the right to
10 cross-examine witnesses.

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

17 5. This Stipulation and Respondents' decision not to contest the Accusation
18 are made for the purpose of reaching an agreed disposition of this proceeding, it is limited to this
19 proceeding and any other proceeding or case brought by the Department of Real Estate, or
20 another agency of this state or another state, or the federal government. The Stipulation shall not
21 otherwise be admissible in any other proceeding.

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

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

7 8. Respondent understands that by agreeing to this Order, Respondent agrees
8 to pay, pursuant to Section 10106 of the Business and Professions Code (Code), the cost of the
9 investigation which resulted in the determination that Respondent committed the violations
10 found in the Determination of Issues. The amount of said costs is \$2,972.50.

11 9. Respondents further understand that by agreeing to this Stipulation, the
12 findings set forth below in the "Determination of Issues" become final, and that the
13 Commissioner may charge said Respondents for the costs of any audit conducted pursuant to
14 Section 10148 of the Code to determine if the violations have been corrected. The maximum
15 cost of said audit shall not exceed \$5,019.00.

16 DETERMINATION OF ISSUES

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

22 ORDER

23 ACON, INC.

24 The restricted corporate real estate broker license of ACON, under the Real Estate Law shall be
25 further restricted, one (1) year from the effective date. The restricted license issued to ACON
26 shall be subject to all of the provisions of Section 10156.7 of the Code and to the following
27 limitations, conditions, and restrictions imposed under authority of Section 10156.6 of the Code:

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

2. ACON 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 one (1) year has elapsed from the effective date of this Stipulation. ACON shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the license have been removed.

DAVID ALBERT NOVELO

The restricted real estate broker license of NOVELO, under the Real Estate Law shall be further restricted, on (1) year from the effective date. The restricted license issued to NOVELO 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 NOVELO may be suspended prior to hearing by Order of the Commissioner in the event of NOVELO's conviction or plea of nolo contendere to a crime which is substantially related to NOVELO's fitness or capacity as a real estate licensee.

2. The restricted license issued to NOVELO may be suspended prior to hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that NOVELO 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. NOVELO 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 one (1) year has elapsed from the effective date of this Stipulation. NOVELO shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the


1 license have been removed.

2 A C O N, INC. AND DAVID ALBERT NOVELO

3 1. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
4 severally, pay the Commissioner's reasonable cost, not to exceed \$5,019.00, for an audit to
5 determine if Respondents have corrected the violation(s) found in the "Determination of Issues".
6 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
7 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
8 include an allocation for travel time to and from the auditor's place of work. Respondents shall
9 pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner.
10 Payment of the audit costs should not be paid until Respondents receive the invoice. If
11 Respondents fails to satisfy this condition in a timely manner as provided for herein,
12 Respondents' real estate licenses shall automatically be suspended until payment is paid in full,
13 or until a decision providing otherwise is adopted following a hearing held pursuant to this
14 condition.

15 2. All licenses and licensing rights of Respondents are indefinitely
16 suspended unless or until Respondents pay the sum of \$2,972.50 for the Commissioner's
17 reasonable cost of the investigation and enforcement which led to this disciplinary action. Said
18 payment shall be in the form of a cashier's check made payable to the Department of Real
19 Estate. The investigative costs must be delivered to the Department of Real Estate, Flag Section
20 at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Stipulation.

21 5/17/24
22 DATED


23 
24 RICHARD K. UNO, Counsel III
25 DEPARTMENT OF REAL ESTATE

26 * * *

27 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

1 rights given to me by the California Administrative Procedure Act (including but not limited
2 to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
3 intelligently, and voluntarily waive those rights, including the right of requiring the
4 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
5 right to cross-examine witnesses against me and to present evidence in defense and mitigation
6 of the charges.

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8 May 16, 2024
9 DATED


ACON, INC.
BY: DAVID ALBERT NOVELO

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12 ***

13 May 16, 2024
14 DATED


DAVID ALBERT NOVELO

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

20 May 17, 2024
21 DATED



MARY E. WORK
Attorney for Respondents

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2 The foregoing Stipulation and Agreement In Settlement and Order is hereby
3 adopted by the Real Estate Commissioner as his Decision and Order and shall become
4 effective at 12 o'clock noon on AUG 20 2024

5 IT IS SO ORDERED

6 7/29/2024
7 CHIKA SUNQUIST
8 COMMISSIONER

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10 By: Marcus L. McCarther, Chief Deputy Real
11 Estate Commissioner
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