

1 Department of Real Estate
2 P. O. Box 187000
3 Sacramento, CA 95818-7000

4 Telephone: (916) 227-0789
5
6
7

FILED
DEC - 8 2004

DEPARTMENT OF REAL ESTATE

By *Laurie A. Z...*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) NO. H-8760 SF
12)
13)
14 LINO S. MATOS,) STIPULATION AND AGREEMENT
15) IN SETTLEMENT AND ORDER
Respondent.)

16 It is hereby stipulated by and between LINO S. MATOS
17 (Respondent) and his attorney of record, William B. Gustafson,
18 and the Complainant, acting by and through David B. Seals,
19 Counsel for the Department of Real Estate, as follows for the
20 purpose of settling and disposing of the Accusation filed on
21 April 9, 2003, in this matter:

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

27 ///

1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement in Settlement.

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

7 3. A Notice of Defense was filed on May 17, 2004 by
8 Respondent, pursuant to Section 11505 of the Government Code for
9 the purpose of requesting a hearing on the allegations in the
10 Accusation. Respondent hereby freely and voluntarily withdraws
11 said Notice of Defense. Respondent acknowledges that he
12 understands that by withdrawing said Notice of Defense he will
13 thereby waive his right to require the Commissioner to prove the
14 allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that he will waive
16 other rights afforded to him in connection with the hearing such
17 as the right to present evidence in defense of the allegations
18 in the Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation. In the interests of
21 expedience and economy, Respondent chooses not to contest these
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual allegations, without being
24 admitted or denied, will serve as a prima facie basis for the
25 disciplinary action stipulated to herein. The Real Estate
26 Commissioner shall not be required to provide further evidence
27 to prove said factual allegations.

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement in
3 Settlement as her decision in this matter thereby imposing the
4 penalty and sanctions on Respondent's real estate licenses and
5 license rights as set forth in the below "Order". In the event
6 that the Commissioner in her discretion does not adopt the
7 Stipulation and Agreement in Settlement, it shall be void and of
8 no effect, and Respondent shall retain the right to a hearing
9 and proceeding on the Accusation under all the provisions of the
10 APA and shall not be bound by any admission or waiver made
11 herein.

12 6. The Order or any subsequent Order of the Real
13 Estate Commissioner made pursuant to this Stipulation and
14 Agreement in Settlement shall not constitute an estoppel, merger
15 or bar to any further administrative or civil proceedings by the
16 Department of Real Estate with respect to any matters which were
17 not specifically alleged to be causes for accusation in this
18 proceeding.

19 DETERMINATION OF ISSUES

20 By reason of the foregoing stipulations, admissions
21 and waivers and solely for the purpose of settlement of the
22 pending Accusation without a hearing, it is stipulated and
23 agreed that the facts alleged above are grounds for the
24 suspension or revocation of the licenses and license rights of
25 Respondent ~~DAIS~~ LINO S. MATOS under Sections 490 and 10177(b) of
26 the Code.

27 ///

1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7
8
9
0
1
2
3
4
5
6
7

1. The restricted license issued to Respondent may be
suspended prior to hearing by Order of the Real Estate
Commissioner in the event of Respondent'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.

3. Respondent shall not be eligible to apply for the
issuance of an unrestricted real estate license nor for the
removal of any of the conditions, limitations or restrictions of

1 a restricted license until two (2) years have elapsed from the
2 effective date of this Decision.

3 4. Respondent shall submit with any application for
4 license under an employing broker, or any application for
5 transfer to a new employing broker, a statement signed by the
6 prospective employing real estate broker on a form approved by
7 the Department of Real Estate which shall certify:

8 (a) That the employing broker has read the Decision
9 of the Commissioner which granted the right to a
10 restricted license; and

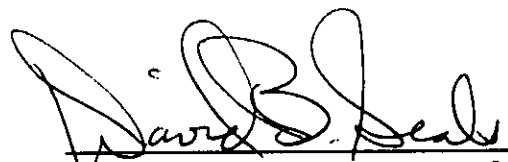
11 (b) That the employing broker will exercise close
12 supervision over the performance by the
13 restricted licensee relating to activities for
14 which a real estate license is required.

15 5. Respondent shall, within nine (9) months from the
16 effective date of this Decision, present evidence satisfactory
17 to the Real Estate Commissioner that Respondent has, since the
18 most recent issuance of an original or renewal real estate
19 license, taken and successfully completed the continuing
20 education requirements of Article 2.5 of Chapter 3 of the Real
21 Estate Law for renewal of a real estate license. If Respondent
22 fails to satisfy this condition, the Commissioner may order the
23 suspension of the restricted license until the Respondent
24 presents such evidence. The Commissioner shall afford Respondent
25 the opportunity for a hearing pursuant to the Administrative
26 Procedure Act to present such evidence.

27 ///

1
2 DATED:

11/8/2004

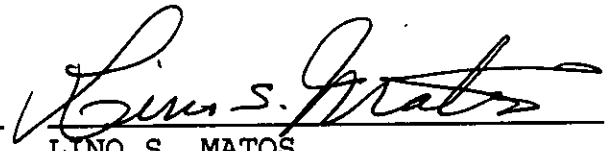

DAVID B. SEALS, Counsel
DEPARTMENT OF REAL ESTATE

3
4
5 * * *

6 I have read the Stipulation and Agreement, have
7 discussed it with my counsel, and its terms are understood by me
8 and are agreeable and acceptable to me. I understand that I am
9 waiving rights given to me by the California Administrative
10 Procedure Act (including but not limited to Sections 11506,
11 11508, 11509, and 11513 of the Government Code), and I willingly,
12 intelligently, and voluntarily waive those rights, including the
13 right of requiring the Commissioner to prove the allegations in
14 the Accusation at a hearing at which I would have the right to
15 cross-examine witnesses against me and to present evidence in
16 defense and mitigation of the charges.

17
18 DATED:

10/28/04


LINO S. MATOS
Respondent

19
20
21 * * *

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

24
25
26 DATED:

10-25-04


WILLIAM B. GUSTAFSON
Attorney for Respondent

1 * * *

2 The foregoing Stipulation and Agreement in Settlement
3 is hereby adopted by the Real Estate Commissioner as her Decision
4 and Order and shall become effective at 12 o'clock noon on
5 DECEMBER 27, 2004.

6 IT IS SO ORDERED November 23, 2004.

7 JEFF DAVI
8 Real Estate Commissioner

9 
10 _____
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED

AUG 27 2004

DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

LINO S. MATOS,

Case No. H-8760 SF

OAH No. N-2004060077

Respondent

**FIRST AMENDED
NOTICE OF HEARING ON APPLICATION**

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **THURSDAY, OCTOBER 21, 2004**, at the hour of **9:00 A.M.**, or as soon thereafter as the matter can be heard, upon the Statement of Issues served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: AUGUST 27, 2004

DEPARTMENT OF REAL ESTATE

By

David B. Seals
DAVID B. SEALS, Counsel

FILED
JUN - 1 2004

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

DEPARTMENT OF REAL ESTATE

By Laurie L. Gier

In the Matter of the Accusation of

LINO S. MATOS,

} Case No. H-8760 SF

} OAH No.

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at **THE OFFICE OF ADMINISTRATIVE HEARINGS, 1515 CLAY STREET, SUITE 206, OAKLAND, CA 94612** on **THURSDAY, AUGUST 12, 2004**, at the hour of 9:00 A.M., or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten (10) days after this notice is served on you. Failure to notify the presiding administrative law judge within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

DEPARTMENT OF REAL ESTATE

Dated: JUNE 1, 2004

By David B. Seals
DAVID B. SEALS, Counsel (12)

1 DAVID B. SEALS, Counsel (SBN 69378)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007

5 Telephone: (916) 227-0789
6 -or- (916) 227-0792 (Direct)

FILED

APR 30 2004

DEPARTMENT OF REAL ESTATE

By Laurie G. Jiri

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11
12 In the Matter of the Accusation of

13 LINO S. MATOS,

14 Respondent.

)
) No. H-8760 SF

)
) ACCUSATION

15
16 The Complainant, Les R. Bettencourt, a Deputy Real
17 Estate Commissioner of the State of California for cause of
18 Accusation against LINO S. MATOS (hereinafter Respondent), is
19 informed and alleges as follows:

20 I

21 The Complainant, Les R. Bettencourt, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

24 ///

25 ///

26 ///

27 ///

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

II

Respondent is licensed and/or has license rights under the Real Estate Law, Part 1 of Division 4 of the California Business and Professions Code (hereinafter "Code") as a real estate salesperson.

III

On or about December 10, 2002, in the Superior Court of California, County of Santa Clara, Respondent was convicted of violation of California Penal Code Section 273d (Inflict Corporal Injury Upon Child), a crime involving moral turpitude and/or which is substantially related under Section 2910, Title 10, California Code of Regulations (herein after the "Regulations") to the qualifications, functions or duties of a real estate licensee.

MATTERS IN AGGRAVATION

IV

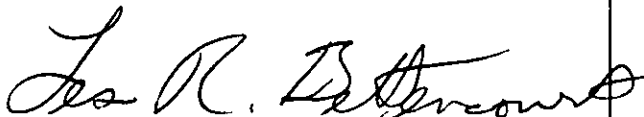
On or about October 14, 1999, in the Superior Court of California, County of Santa Clara, Respondent was convicted of violation of California Penal Code Section 273.5(a) (Inflict Corporal Injury on Spouse or Cohabitant), a crime involving moral turpitude and/or which is substantially related under Section 2910 of the Regulations to the qualifications, functions or duties of a real estate licensee.

///
///
///
///

V

The facts alleged above constitute cause under Sections 490 and 10177(b) of the Code for suspension or revocation of all licenses and license rights of Respondent under the Real Estate Law.

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent, under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other provisions of law.


LES R. BETTENCOURT
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 27th day of April, 2004.