

1 my satisfaction that he meets the requirements of law for the
2 issuance to him of an unrestricted real estate salesperson
3 license and that it would not be against the public interest to
4 issue said license to him.

5 NOW, THEREFORE, IT IS ORDERED that Respondent's
6 petition for removal of restrictions is granted and that a real
7 estate salesperson license be issued to him subject to the
8 following understanding and conditions:

9 1. The license issued pursuant to this order shall be
10 deemed to be the first renewal of respondent's real estate
11 salesperson license for the purpose of applying the provisions
12 of Section 10153.4.

13 2. Within nine (9) months from the date of this order
14 respondent shall:

15 (a) Submit a completed application and pay the
16 appropriate fee for a real estate salesperson license, and

17 (b) Submit evidence of having taken and successfully
18 completed the courses specified in subdivisions (a)

19 (1), (2), (3), (4) and (5) of Section 10170.5 of the
20 Real Estate Law for renewal of a real estate license.

21 ///

22 ///

23 ///

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

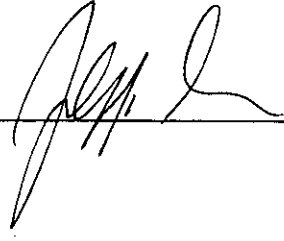
3. Upon renewal of the license issued pursuant to
this order, respondent shall submit evidence of having taken and
successfully completed the continuing education requirements of
Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
real estate license.

This Order shall become effective immediately.

DATED: 7-8, 2008

JEFF DAVI

Real Estate Commissioner



FLAG

FILED
MAR 10 2005

DEPARTMENT OF REAL ESTATE

By *Gene Maurer*

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

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	No. H-8987 SF
MARC ANTHONY GALLARDO,)	<u>STIPULATION AND WAIVER</u>
Respondent.)	

It is hereby stipulated by and between MARC ANTHONY GALLARDO (hereafter Respondent), and Respondent's professional advocate Charles Benninghoff, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed on October 21, 2004 in this matter:

Respondent acknowledges that Respondent has received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate in connection with Respondent's application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of

1 requiring further proof of Respondent's honesty and truthfulness
2 and to prove other allegations therein, or that he may in his
3 discretion waive the hearing and grant Respondent a restricted
4 real estate salesperson license based upon this Stipulation and
5 Waiver. Respondent also understands that by filing the Statement
6 of Issues in this matter the Real Estate Commissioner is shifting
7 the burden to Respondent to make a satisfactory showing that
8 Respondent meets all the requirements for issuance of a real
9 estate salesperson license. Respondent further understands that
10 by entering into this stipulation and waiver Respondent will be
11 stipulating that the Real Estate Commissioner has found that
12 Respondent has failed to make such a showing, thereby justifying
13 the denial of the issuance to Respondent of an unrestricted real
14 estate salesperson license.

15 Respondent hereby admits that the allegations of the
16 Statement of Issues filed against Respondent are true and correct
17 and requests that the Real Estate Commissioner in his discretion
18 issue a restricted real estate salesperson license to Respondent
19 under the authority of Section 10156.5 of the Business and
20 Professions Code. Respondent understands that any such
21 restricted license will be issued subject to and be limited by
22 Section 10153.4 of the Business and Professions Code.

23 Respondent is aware that by signing this Stipulation
24 and Waiver, Respondent is waiving Respondent's right to a hearing
25 and the opportunity to present evidence at the hearing to
26 establish Respondent's rehabilitation in order to obtain an
27 unrestricted real estate salesperson license if this Stipulation

1 and Waiver is accepted by the Real Estate Commissioner. However,
2 Respondent is not waiving Respondent's right to a hearing and to
3 further proceedings to obtain a restricted or unrestricted
4 license if this Stipulation and Waiver is not accepted by the
5 Commissioner.

6 Respondent further understands that the following
7 conditions, limitations, and restrictions will attach to a
8 restricted license issued by the Department of Real Estate
9 pursuant hereto:

- 10 1. The license shall not confer any property right in the
11 privileges to be exercised including the right of renewal,
12 and the Real Estate Commissioner may by appropriate order
13 suspend the right to exercise any privileges under this
14 restricted license in the event of:
 - 15 a. The conviction of Respondent (including a plea of nolo
16 contendere) to a crime which bears a substantial
17 relationship to Respondent's fitness or capacity as a
18 real estate licensee; or
 - 19 b. The receipt of evidence that Respondent has violated
20 provisions of the California Real Estate Law, the
21 Subdivided Lands Law, Regulations of the Real Estate
22 Commissioner or conditions attaching to this restricted
23 license.
- 24 2. Respondent shall not be eligible to apply for the issuance
25 of an unrestricted real estate license nor the removal of
26 any of the conditions, limitations or restrictions
27 attaching to the restricted license, until two (2) years

1 have elapsed from the date of issuance of the restricted
2 license to Respondent.

3 3. With the application for license, or with the application
4 for transfer to a new employing broker, Respondent shall
5 submit a statement signed by the prospective employing
6 broker shall certify as follows:

7 a. That the broker has read the Statement of Issues which
8 is the basis for the issuance of the restricted
9 license; and

10 b. That broker will carefully review all transaction
11 documents prepared by the restricted licensee and
12 otherwise exercise close supervision over the
13 licensee's performance of acts for which a real estate
14 license is required.

15 4. Respondent's restricted real estate salesperson license is
16 issued subject to the requirements of Section 10153.4 of
17 the Business and Professions Code, to wit: Respondent is
18 required, within eighteen (18) months of issuance of the
19 restricted license, to submit evidence satisfactory to the
20 Commissioner of successful completion, at an accredited
21 institution, of two of the courses listed in Section
22 10153.2, other than real estate principles, advanced legal
23 aspects of real estate, advanced real estate finance, or
24 advanced real estate appraisal. If Respondent fails to
25 timely present to the Department satisfactory evidence of
26 successful completion of the two required courses, the
27 restricted license shall be automatically suspended

1 effective eighteen (18) months after the date of its
2 issuance. Said suspension shall not be lifted unless,
3 prior to the expiration of the restricted license,
4 Respondent has submitted the required evidence of course
5 completion and the Commissioner had given written notice
6 to Respondent of the lifting of the suspension.

7 5. Pursuant to Section 10154, if Respondent has not satisfied
8 the requirements for an unqualified license under Section
9 10153.4, Respondent shall not be entitled to renew the
10 restricted license, and shall not be entitled to the
11 issuance of another license which is subject to Section
12 10153.4 until four years after the date of the issuance of
13 the preceding restricted license.

14
15 22 Feb -05
16 DATED

14
15 Iruf. Sec
16 TRULY SUGHRUE,
17 Counsel, Department of Real Estate

17 * * *

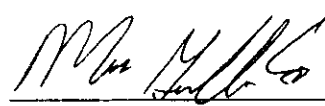
18 I have read the Stipulation and Waiver, have discussed
19 it with my counsel, and its terms are understood by me and are
20 agreeable and acceptable to me. I understand that I am waiving
21 rights given to me by the California Administrative Procedure Act
22 (including but not limited to Section 11506, 11508, 11509, and
23 11513 of the Government Code), and I willingly, intelligently,
24 and voluntarily waive those rights, including the right of a
25 hearing on the Statement of Issues at which I would have the
26

1 right to cross-examine witnesses against me and to present
2 evidence in defense and mitigation of the charges.

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

2-17-05

DATED




MARC ANTHONY GALLARDO
Respondent

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

2-14-05

DATED



CHARLES BENNINGHOFF
Professional Advocate for
Respondent

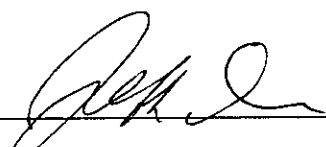
* * *

1 I have read the Statement of Issues filed herein and
2 the foregoing Stipulation and Waiver signed by the Respondent. I
3 am satisfied that the hearing for the purpose of requiring
4 further proof as to the honesty and truthfulness of Respondent
5 need not be called and that it will not be inimical to the public
6 interest to issue a restricted real estate salesperson license to
7 Respondent.

8 Therefore, IT IS HEREBY ORDERED that a restricted real
9 estate salesperson license be issued to Respondent, if Respondent
10 has otherwise fulfilled all of the statutory requirement for
11 licensure. The restricted license shall be limited, conditioned,
12 and restricted as specified in the foregoing Stipulation and
13 Waiver.

14 This Order is effective immediately.

15 IT IS SO ORDERED 3-9-05
16

17 
18 _____
19 JEFF DAVI
20 Real Estate Commissioner
21
22
23
24
25
26
27

FLAG

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
NOV 17 2004

DEPARTMENT OF REAL ESTATE

By Anna Shaver

In the Matter of the Application of

MARC ANTHONY GALLARDO

}
}

Case No. H-8987 SF

OAH No.

Respondent

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 MONDAY, JANUARY 10, 2005, 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.

DEPARTMENT OF REAL ESTATE

Dated: NOVEMBER 17, 2004

By Truly Sughrue
TRULY SUGHRUE, Counsel

1 TRULY SUGHRUE, Counsel
2 State Bar No. 223266
3 Department of Real Estate
4 P.O. Box 187007
5 Sacramento, CA 95818-7007
6 Telephone: (916) 227-0781

FILED

OCT 21 2004

DEPARTMENT OF REAL ESTATE

By Jean [Signature]

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of)
12 MARC ANTHONY GALLARDO,) No. H-8987 SF
13 Respondent.) STATEMENT OF ISSUES

14
15 The Complainant, LES R. BETTENCOURT, a Deputy Real
16 Estate Commissioner of the State of California, for Statement of
17 Issues against MARC ANTHONY GALLARDO (hereinafter "Respondent"),
18 is informed and alleges as follows:

19 I

20 Respondent made application to the Department of Real
21 Estate of the State of California for a real estate salesperson
22 license on or about September 22, 2003, with the knowledge and
23 understanding that any license issued as a result of said
24 application would be subject to the conditions of Section 10153.4
25 of the Business and Professions Code.

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

Complainant, LES R. BETTENCOURT, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues in his official capacity and not otherwise.

III

On or about January 23, 2001, in the Superior Court, County of Santa Clara, Respondent was convicted of two violations of Section 484/488 of the California Penal Code (Theft), a crime involving moral turpitude which bears a substantial relationship under Section 2910, Title 10, California Code of Regulations, to the qualifications, functions, or duties of a real estate licensee.

IV

The crime of which Respondent was convicted, as alleged in Paragraph III, above, constitutes cause for denial of Respondent's application for a real estate license under Sections 480(a) and 10177(b) of the California Business and Professions Code.

V

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about June 24, 2002.

VI

In response to Question 25 of said June 24, 2002 application, to wit: "Have you ever been convicted of any violation of law?", Respondent answered "No".

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

VII

Effective March 4, 2003 in Case No. H-8208 SF before the State of California Department of Real Estate, the application of Respondent, MARC ANTHONY GALLARDO for a real estate salesperson license was denied for violation of Section 480(c) and 10177(a) of the California Business and Professions Code.

IX

Respondent's failure to reveal the conviction set forth in Paragraph III, above, in the June 24, 2002 application constitutes the procurement of a real estate license by fraud, misrepresentation, or deceit, or by making a material misstatement of fact in said application, which failure is cause for denial of Respondent's application for a real estate license under Sections 480(c) and 10177(a) of the California Business and Professions Code.

PRIOR PROCEEDINGS


X

Effective March 4, 2003, in Case No. H-8208 SF before the State of California Department of Real Estate, the application of Respondent for a real estate salesperson license was denied for violation of Sections 480(a), 480(c), 10177(a), and 10177(b) of the Code.

\\
\\
\\
\\

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

WHEREFORE, the Complainant prays that the above-entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent, 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 8th day of October, 2004.