

FILED
MAY 23 2006

DEPARTMENT OF REAL ESTATE

By Arne Khan

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of

ARIF I. KHAN,

Respondent.

No. H-9350 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between ARIF I. KHAN (hereafter Respondent) and his attorney, Edgardo Gonzalez, 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 the Accusation filed on August 22, 2005 in this matter:

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

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

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

6 3. On September 8, 2005, Respondent filed a Notice of
7 Defense pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that he
11 understands that by withdrawing said Notice of Defense he will
12 thereby waive his rights to require the Commissioner to prove the
13 allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA, and that he will waive
15 other rights afforded to him in connection with the hearing such
16 as the right to present evidence in defense of the allegations in
17 the Accusation and the right to cross-examine witnesses.

18 4. Respondent, pursuant to the limitations set forth
19 below, hereby admits that the factual allegations pertaining to
20 him in the Accusation filed in this proceeding are true and
21 correct and the Real Estate Commissioner shall not be required to
22 provide further evidence of such allegations.

23 5. Without admitting the truth of the allegations
24 contained in the Accusation, Respondent stipulates that he will
25 not interpose a defense thereto. This Stipulation is based on
26 the factual allegations contained in the Accusation. In the
27 interests of expedience and economy, Respondent choose not to

1 contest the allegations, but to remain silent, and understand
2 that, as a result thereof, these factual allegations, without
3 being admitted or denied, will serve as a basis for the
4 disciplinary action stipulated to herein. The Real Estate
5 Commissioner shall not be required to provide further evidence to
6 prove said factual allegations.

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

14 * * *

15 DETERMINATION OF ISSUES

16 By reason of the foregoing stipulations and waivers and
17 solely for the purpose of settlement of the pending Accusation
18 without a hearing, it is stipulated and agreed that the following
19 determination of issues shall be made:

20 The acts and/or omissions of Respondent ARIF I. KHAN as
21 stipulated above violate Section 10176(a) and 10177(g) of the
22 California Business and Professions Code (hereinafter Code).

23 \\

24 \\

25 \\

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27 \\

1 Respondent shall not be entitled to any repayment nor
2 credit, prorated or otherwise, for the money paid to the
3 Department under the terms of this Order.

4 d) If said Respondent pay the monetary penalty and any other
5 moneys due under this Stipulation and Agreement and if no
6 further cause for disciplinary action against the real
7 estate license of said Respondent occurs within two (2)
8 years from the effective date of this Order, the entire stay
9 hereby granted under Paragraph 1 of this Order, as to said
10 Respondent only, shall become permanent.

11 2) The remaining fifty (50) days of said suspension shall be
12 stayed for two (2) years upon the following terms and
13 conditions:

14 a) Respondent shall obey all laws, rules and regulations
15 governing the rights, duties and responsibilities of a real
16 estate licensee in the State of California; and,

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

25 3) Respondent shall, within six (6) months from the effective
26 date of this Decision, take and pass the Professional
27 Responsibility Examination administered by the Department

1 including the payment of the appropriate examination fee. If
2 Respondent fails to satisfy this condition, the Commissioner
3 may order suspension of the license until Respondent passes
4 the examination.

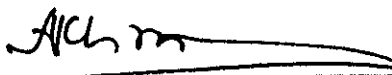
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6
7 DATED


TRUDY SUGHRUE
Counsel for Complainant

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9 * * *

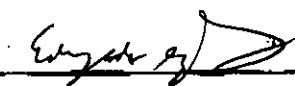
10 I have read the Stipulation and Agreement, and its
11 terms are understood by me and are agreeable and acceptable to
12 me. I understand that I am waiving rights given to me by the
13 California Administrative Procedure Act, and I willingly,
14 intelligently and voluntarily waive those rights, including the
15 right of requiring the Commissioner to prove the allegations in
16 the Accusation at a hearing at which I would have the right to
17 cross-examine witnesses against me and to present evidence in
18 defense and mitigation of the charges.

19
20 DATED


ARIF I. KHAN
Respondent

21
22
23 I have reviewed the Stipulation and Agreement as to
24 form and content and have advised my client accordingly.

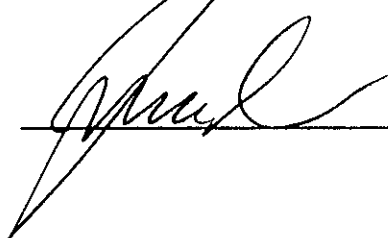
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26 DATED


EDGARDO GONZALEZ
Attorney for Respondent

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IT IS SO ORDERED 5-1-06, 2006.

JEFF DAVIS
Real estate Commissioner



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
7 Telephone: (916) 227-0781

FILED

AUG 22 2005

DEPARTMENT OF REAL ESTATE

By Jean Arund

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-9350 SF

12 ARIF I. KHAN,)

ACCUSATION

13 Respondent.)
14

15 The Complainant, E. J. HABERER II, a Deputy Real Estate
16 Commissioner of the State of California, for cause of Accusation
17 against ARIF I. KHAN (herein "Respondent"), is informed and
18 alleges as follows:

19 I

20 The Complainant, E. J. HABERER II, a Deputy Real Estate
21 Commissioner of the State of California, makes this Accusation in
22 his official capacity.

23 II

24 At all times herein mentioned, Respondent was and now
25 is licensed and/or has license rights under the Real Estate Law
26 (Part 1 of Division 4 of the Business and Professions Code)
27 (herein "the Code").

III

1 At all times herein mentioned, Respondent was and is
2 licensed by the Department of Real Estate (hereafter the
3 Department) as a real estate broker.
4

IV

5 At all times herein mentioned, Respondent engaged in
6 the business of, acted in the capacity of, advertised or assumed
7 to act as a real estate broker in the State of California within
8 the meaning of Section 10131(a) of the Code, including the
9 operation and conduct of a real estate resale brokerage with the
10 public wherein, on behalf of others, for compensation or in
11 expectation of compensation, Respondent sold and offered to sell,
12 bought and offered to buy, solicited prospective sellers and
13 purchasers of, solicited and obtained listings of, and negotiated
14 the purchase and resale of real property.
15

V

16 On or about November 22, 2004, in course of the
17 activities described in Paragraph IV, Respondent prepared and
18 submitted a written offer for the purchase of real property
19 located at 1204 Pine Tree Lane, Modesto, California by Ramamdra
20 Kumar (herein after "BUYER"). Respondent represented in said
21 offer that he was in receipt of a check in the amount of \$2,000
22 from BUYER, to be deposited in escrow within the next business
23 day after acceptance of the offer.
24

VI

25 On or about November 22, 2004, the SELLER accepted the
26 offer.
27

VII

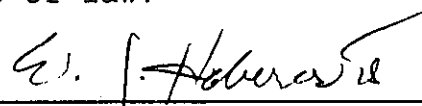
Respondent's representation that he was in receipt of the \$2,000 check was false. The offer was accepted, but no deposit was placed into escrow.

VIII

Respondent's conduct described in Paragraph VII above constitutes the making of substantial misrepresentations, and fraud or dishonest dealing, and is cause under Sections 10176(a) and 10176(i) of the Code for suspension or revocation of all licenses and license rights of Respondent.

IX

In the alternative, Respondent's conduct described in Paragraph VII above constitutes the making of substantial misrepresentations, and negligence or incompetence in performing acts requiring a real estate license, and is cause under Sections 10176(a) and 10177(g) of the Code for suspension or revocation of all licenses and license rights of Respondent. 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 Respondents, 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.


E. J. HABERER II
Deputy Real Estate Commissioner

Dated at Oakland, California,
this 9th day of August, 2005