

FILED

SEP 13 2012

DEPARTMENT OF REAL ESTATE
P. O. Box 187007
Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

Telephone: (916) 227-0789

By R. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of	)	
	)	NO. H-10867 SF
MARIA VICTORIA RAMOS DEL ROSARIO,	)	
	)	STIPULATION AND AGREEMENT
Respondent.	)	IN SETTLEMENT AND ORDER
	)	

It is hereby stipulated by and between MARIA VICTORIA RAMOS DEL ROSARIO (hereinafter "Respondent") and her attorney, GENE P. LAFOLLETTE, ESQ., and the Complainant, acting by and through KENNETH C. ESPELL, Counsel for the Department of Real Estate (hereinafter "the Department"), as follows for the purpose of settling and disposing of the Accusation filed on March 1, 2010, in this matter (hereinafter "the Accusation"):

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 was to be held in accordance with the provisions of the Administrative Procedure Act (hereinafter "APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement.

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

4 3. On or about March, 4, 2010, Respondent filed a Notice of Defense
5 pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on
6 the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said
7 Notice of Defense. Respondent acknowledges that Respondent understands that by withdrawing
8 said Notice of Defense, Respondent will thereby waive Respondent's right to require the Real
9 Estate Commissioner (hereinafter "Commissioner") to prove the allegations in the Accusation at
10 a contested hearing held in accordance with the provisions of the APA and that Respondent will
11 waive other rights afforded to Respondent in connection with the hearing such as the right to
12 present evidence in defense of the allegations in the Accusation and the right to cross-examine
13 witnesses.

14 4. Respondent, pursuant to the limitations set forth below, hereby admits that
15 the factual allegations in the Accusation pertaining to Respondent are true and correct and
16 stipulates and agrees that the Commissioner shall not be required to provide further evidence of
17 such allegations.

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

25 6. This Stipulation and Agreement shall not constitute an estoppel, merger,
26 or bar to any further administrative or civil proceedings by the Department with respect to any
27 matters which were not specifically alleged to be causes for accusation in this proceeding.

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers and solely for
3 the purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed
4 that the acts and omissions of Respondent described in the Accusation are grounds for the
5 suspension or revocation of the licenses and license rights of Respondent in that Respondent's
6 conduct violated Sections 10176(a) (making a substantial misrepresentation); 10176(b) (making
7 any false promise of a character likely to influence, persuade or induce); 10176(c) (a continued
8 and flagrant course of misrepresentation or the making of false promises); 10176(i) (any conduct,
9 whether of the same or different character than specified in Section 10176 of the Business and
10 Professions Code which constitutes fraud or dishonest dealing); 10177(d) (willful disregard or
11 violation of the Real Estate Law); and, 10177(j) (engaging in any other conduct whether of the
12 same or a different character than specified in Section 10177 of the California Business and
13 Professions Code which constitutes fraud or dishonest dealing) of the California Business and
14 Professions Code (hereinafter "Code").

15 ORDER

16 1. All licenses & license rights of Respondent under the Real Estate Law are
17 suspended for a period of ninety (90) days from the effective date of the Decision herein;
18 provided, however, that forty-five (45) days of said suspension shall be stayed upon the
19 condition that Respondent pays a monetary penalty pursuant to Section 10175.2 of the Code at a
20 rate of \$100.00 for each day of the suspension for a total monetary penalty of \$4,500.00.

21 a. Said payment shall be in the form of a cashier's check or certified
22 check made payable to the Recovery Account of the Real Estate Fund. Said check must be
23 delivered to the Department prior to the effective date of the Order in this matter.

24 b. No further cause for disciplinary action against the real estate
25 licenses of Respondent occurs within four (4) years from the effective date of the Decision in this
26 matter.

27 ///

1 c. If Respondent fails to pay the monetary penalty as provided above
2 prior to the effective date of this Order, the stay of the suspension shall be vacated as to
3 Respondent and the order of suspension shall be immediately executed under this Order, in
4 which event Respondent shall not be entitled to any repayment nor credit, prorated or otherwise,
5 for any money paid to the Department under the terms of this Order.

6 d. If Respondent pays the monetary penalty and any other moneys due
7 under this Stipulation and Agreement in Settlement and if no further cause for disciplinary action
8 against the real estate license of Respondent occurs within four (4) years from the effective date
9 of this Order, the entire stay hereby granted under this Order shall become permanent.

10 2. Forty-five (45) days of said suspension shall be stayed for four (4) years
11 upon the following terms and conditions:

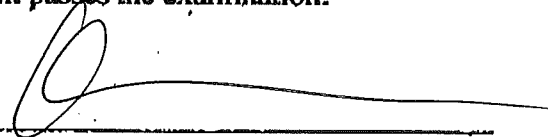
12 a. Respondent shall obey all laws, rules, regulations governing the
13 rights, duties, and responsibilities of a real estate licensee in the State of California, and,

14 b. That no final subsequent determination is made, the Commission
15 be made in her discretion, after hearing or upon stipulation that is cause for cause for disciplinary
16 action occurred within four (4) years from the effective date of this Order. Should such a
17 determination be made, the Commissioner may in the Commissioner's sole discretion, vacate
18 and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no
19 such determination be made, the stay made shall become permanent.

20 3. All license and licensing rights of Respondent are indefinitely suspended
21 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
22 successfully completed the continuing education courses on trust fund accounting and handling,
23 property management, and ethics specified in paragraph (3) of subdivision (a) of Section 10170.5
24 of the Code. Proof of satisfaction of this requirement includes evidence that Respondent as
25 successfully completed the trust fund accounting and handling continuing education course
26 within 120 days prior to the effective date of the Decision in this matter.

1 4. Respondent shall, within six months from the effective date of this
2 Decision, take and pass the Professional Responsibility Examination administered by the
3 Department including the payment of the appropriate examination fee. If Respondent fails to
4 satisfy this condition, the Commissioner may, at the Commissioner's sole discretion, order
5 suspension of Respondent's license until Respondent passes the examination.

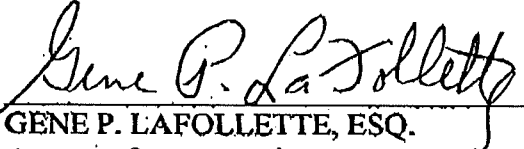
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7 7/19/2012
8 DATED

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11 
12 KENNETH C. ESPELL
13 Real Estate Counsel II
14 Department of Real Estate

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16
17 *I have reviewed the Stipulation and Agreement as to form and content and have*
18 *advised my client accordingly.*

19
20 March 9, 2012
21 DATED

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23 
24 GENE P. LAFOLLETTE, ESQ.
25 Attorney for Respondent

26
27 I have read the Stipulation and Agreement and its terms are understood by me and
are agreeable and acceptable to me. I understand that I am waiving rights given to me by the
California Administrative Procedure Act (including but not limited to Sections 11506, 11508,
11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
those rights, including the right of requiring the Commissioner to prove the allegations in the
Accusation at a hearing at which I would have the right to cross-examine witnesses against me
and to present evidence in defense and mitigation of the charges.

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29 March 8, 2012
30 DATED

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33 MARIA VICTORIA RAMOS DEL ROSARIO
34 Respondent

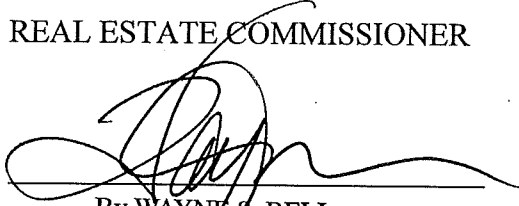
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ORDER

The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent MARIA VICTORIA RAMOS DEL ROSARIO and
shall become effective at 12 o'clock noon on OCT 03 2012

IT IS SO ORDERED 9/10/2012

REAL ESTATE COMMISSIONER


By WAYNE S. BELL
Chief Counsel