

FILED

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

APR 04 2013

4 Telephone: (916) 227-2380

DEPARTMENT OF REAL ESTATE

By *S. Jones*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

| | | | |
|----|------------------------------------|---|----------------------------------|
| 11 | In the Matter of the Accusation of |) | DRE No. H-11245 SF |
| 12 | |) | |
| 13 | MGM GLOBAL, INC. and |) | |
| 14 | AFSHIN SARBAZ, |) | <u>STIPULATION AND AGREEMENT</u> |
| 15 | |) | <u>IN SETTLEMENT AND ORDER</u> |
| | Respondents. |) | |
| | |) | |

16 It is hereby stipulated by and between AFSHIN SARBAZ (SARBAZ), only, and
17 his counsel Robert L. Elam, and the Complainant, acting by and through Richard K. Uno,
18 Counsel for the Department of Real Estate; as follows for the purpose of settling and disposing
19 of the Accusation filed on November 4, 2011, in this matter. The Parties acknowledge that this
20 agreement pertains to SARBAZ only in light of the fact that MGM GLOBAL, INC., in another
21 matter, surrendered its license:

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

27 2. Respondent has received, read and understands the Statement to Respondent,

1 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
2 in this proceeding.

3 3. On March 14, 2012, Respondent SARBAZ, filed a Notice of Defense pursuant
4 to Section 11505 of the Government Code for the purpose of requesting a hearing on the
5 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
6 of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of
7 Defense he will thereby waive his right to require the Commissioner to prove the allegations in
8 the Accusation at a contested hearing held in accordance with the provisions of the APA and that
9 he will waive other rights afforded to him in connection with the hearing such as the right to
10 present evidence in defense of the allegations in the Accusation and the right to cross-examine
11 witnesses.

12 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
13 factual allegations or findings of fact as set forth in the Accusation filed in this proceeding are
14 true and correct and the Real Estate Commissioner shall not be required to provide further
15 evidence of such allegations.

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

23 6. The Order or any subsequent Order of the Real Estate Commissioner made
24 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
25 estoppel, merger or bar to any further administrative or civil proceedings by the Department of
26 Real Estate with respect to any matters which were not specifically alleged to be causes for
27 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 a hearing, it is stipulated and
4 agréed that the acts and/or omissions of Respondent, as described in the Accusation, constitute
5 grounds for the suspension or revocation of the licenses and license rights of AFSHIN SARBAZ
6 under the provisions of Sections 10085, 10137, 10177(d) and 10177(g) of the Code.

7 ORDER

8 AFSHIN SARBAZ

9 1. The real estate salesperson license and license rights of Respondent under the
10 Real Estate Law are suspended for a period of one hundred and eighty (180) days from the
11 effective date of this Order; provided, however, that if Respondent petitions, thirty (30) days of
12 said suspension shall be stayed upon condition that:

13 a. Respondent pays a monetary penalty pursuant to Section 10175.2 of the
14 Business and Professions Code at the rate of \$100.00 per day for thirty (30) days of the
15 suspension for a total monetary penalty of \$3,000.00.

16 b. Said payment shall be in the form of a cashier's check or certified check made
17 payable to the Recovery Account of the Real Estate Fund. Said check must be received by the
18 Department prior to the effective date of the Decision in this matter.

19 c. No further cause for disciplinary action against the real estate license of
20 Respondent occurs within two (2) years from the effective date of the Decision in this matter.

21 d. If Respondent fails to pay the monetary penalty in accordance with the terms
22 and conditions of the Decision, the Commissioner may, without a hearing, order the immediate
23 execution of all or any part of the stayed suspension in which event Respondent shall not be
24 entitled to any repayment nor credit, prorated or otherwise, for money paid to the Department
25 under the terms of this Decision.

1 a. If Respondent pays the monetary penalty, and if no further cause for
 2 disciplinary action against the real estate license of Respondent occurs within two (2) years from
 3 the effective date of the Decision, the stay hereby granted shall become permanent.

AG RIA

4 2. The remaining one hundred and fifty (150) days of said suspension shall be
 5 stayed for two (2) years upon the following terms and conditions:

AG RIA

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

AG RIA

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

14 3. Respondent shall, within six (6) months from the effective date of this
 15 Decision, take and pass the Professional Responsibility Examination administered by the
 16 Department including the payment of the appropriate examination fee. If Respondent fails to
 17 satisfy this condition, the Commissioner may order suspension of Respondent's license until
 18 Respondent passes the examination.

MGM GLOBAL, INC.

19
 20 1. In light of the fact that MGM GLOBAL, INC. surrendered its real estate
 21 License in case No. H-10983 SF, Accusation H-11245 SF is dismissed as to MGM GLOBAL,
 22 INC.

2/14/13

DATED

Richard K. Uno

RICHARD K. UNO, Counsel III
DEPARTMENT OF REAL ESTATE

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2 disciplinary action against the real estate license of Respondent occurs within two (2) years from
3 the effective date of the Decision, the stay hereby granted shall become permanent.

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10 date of this Order. Should such a determination be made, the Commissioner may, in his
11 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
12 suspension. Should no such determination be made, the stay imposed herein shall become
13 permanent.

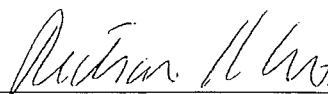
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24 2/14/13

25 DATED

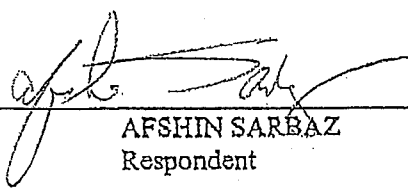
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26 RICHARD K. UNO, Counsel III
27 DEPARTMENT OF REAL ESTATE

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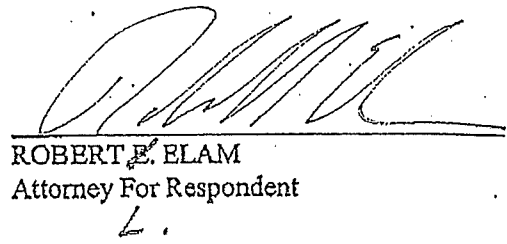
I have read the Stipulation and Agreement in Settlement and Order and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 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.

1, 29, 13
DATED


AFSHIN SARBAZ
Respondent

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

1/30/13
DATED


ROBERT E. BLAM
Attorney For Respondent

The foregoing Stipulation and Agreement In Settlement and Order is hereby

1 adopted by the Real Estate Commissioner as his Decision and Order and shall become effective

2 at 12 o'clock noon on APR 24 2013

3 IT IS SO ORDERED 3/12/2013

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Real Estate Commissioner



WAYNE S. BELL