

1 Department of Real Estate
2 1651 Exposition Blvd, P.O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 576-8700

FILED

FEB 12 2019

DEPARTMENT OF REAL ESTATE

By R. Knapp

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8 **DEPARTMENT OF REAL ESTATE**

9 **STATE OF CALIFORNIA**

10 * * *

11 In the Matter of the Application of

12 CARLOS BERNARDO CARBAJAL,

13 Respondent.

11 } DRE No. H-12289 SF

12 } **STIPULATION AND WAIVER**

14 }
15 It is hereby stipulated by and between CARLOS BERNARDO CARBAJAL, ("Respondent")
16 and Respondent's attorney, MARGLYN E. PASEKA, and the Complainant, acting by and through
17 Kyle Jones, Counsel for the Department of Real Estate ("Department"), as follows for the purpose
18 of settling and disposing of the Statement of Issues filed on November 6, 2018, in this matter:

19 Respondent acknowledges that Respondent has received and read the Statement of Issues and
20 the Statement to Respondent filed by the Department in connection with Respondent's application
21 for a real estate salesperson license. Respondent understands that the Real Estate Commissioner
22 ("Commissioner") may hold a hearing on this Statement of Issues for the purpose of requiring
23 further proof of Respondent's honesty and truthfulness and to prove other allegations therein, or
24 that he may in his discretion waive the hearing and grant Respondent a restricted real estate
25 salesperson license based upon this Stipulation and Waiver. Respondent also understands that by
26 filing the Statement of Issues in this matter the Commissioner is shifting the burden to Respondent

1 to make a satisfactory showing that Respondent meets all the requirements for issuance of a real
2 estate salesperson license. Respondent further understands that by entering into this Stipulation and
3 Waiver, Respondent will be stipulating that the Commissioner has found that Respondent has failed
4 to make such a showing, thereby justifying the denial of the issuance to Respondent of an
5 unrestricted real estate salesperson license.

6 Respondent hereby admits that the allegations included in the Statement of Issues filed against
7 Respondent are true and correct and requests that the Commissioner in his discretion issue a
8 restricted real estate salesperson license to Respondent under the authority of Section 10156.5 of
9 the Business and Professions Code ("the Code").

10 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving
11 Respondent's right to a hearing and the opportunity to present evidence at the hearing to establish
12 Respondent's rehabilitation in order to obtain an unrestricted real estate salesperson license if this
13 Stipulation and Waiver is accepted by the Commissioner. However, Respondent is not waiving
14 Respondent's right to a hearing and to further proceedings to obtain a restricted or unrestricted
15 license if this Stipulation and Waiver is not accepted by the Commissioner.

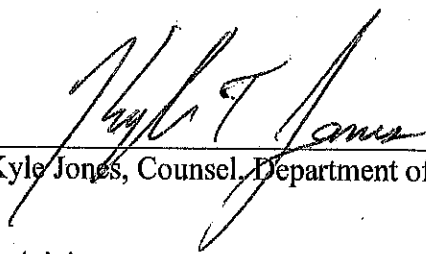
16 Respondent agrees that by signing this Stipulation and Waiver, the conditions, limitations, and
17 restrictions imposed on Respondent's restricted license, identified below, may be removed only by
18 filing a Petition for Removal of Restrictions ("Petition") with the Commissioner, and that
19 Respondent's Petition must follow the procedures set forth in Government Code Section 11522.

20 Respondent further understands that the restricted license issued to Respondent shall be
21 subject to all of the provisions of Section 10156.7 of the Code and to the following limitations,
22 conditions and restrictions imposed under authority of Section 10156.6 of the Code:

- 23 1. The restricted license shall not confer any property right in the privileges to be exercised
24 including the right of renewal, and the Commissioner may by appropriate order suspend
25 the right to exercise any privileges granted under the restricted license in the event of:
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- 1 a. Respondent's conviction (including a plea of nolo contendere) of a crime which
2 bears a substantial relationship to Respondent's fitness or capacity as a real estate
3 licensee; or
- 4 b. The receipt of evidence that Respondent has violated provisions of the California
5 Real Estate Law, the Subdivided Lands Law, Regulations of the Commissioner, or
6 conditions attaching to the restricted license.
- 7 2. Respondent shall not be eligible to petition for the issuance of an unrestricted real estate
8 license nor the removal of any of the conditions, limitations, or restrictions attaching to
9 the restricted license until two years have elapsed from the date of issuance of the
10 restricted license to Respondent. Respondent shall not be eligible to apply for any
11 unrestricted licenses until all restrictions attaching to the license have been removed.
- 12 3. With the application for license, or with the application for transfer to a new employing
13 broker, Respondent shall submit a statement signed by the prospective employing broker
14 on a form approved by the Department wherein the employing broker shall certify as
15 follows:
- 16 a. That the broker has read the Statement of Issues which is the basis for the issuance
17 of the restricted license; and
- 18 b. That the broker will carefully review all transaction documents prepared by the
19 restricted licensee and otherwise exercise close supervision over the licensee's
20 performance of acts for which a license is required.
- 21 4. Respondent shall notify the Commissioner in writing within 72 hours of any arrest by
22 sending a certified letter to the Commissioner at the Department of Real Estate, Post
23 Office Box 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of
24 Respondent's arrest, the crime for which Respondent was arrested and the name and
25 address of the arresting law enforcement agency. Respondent's failure to timely file
26 written notice shall constitute an independent violation of the terms of the restricted
27 license and shall be grounds for the suspension or revocation of that license.

1/16/19
Dated

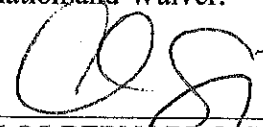

Kyle Jones, Counsel, Department of Real Estate

Respondent has read this Stipulation and Waiver, has discussed it with Respondent's counsel, and its terms are understood by Respondent and are agreeable and acceptable to Respondent. Respondent understands that Respondent is waiving rights given to Respondent by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), and Respondent willingly, intelligently, and voluntarily waives those rights, including the right of a hearing on the Statement of Issues at which Respondent would have the right to cross-examine witnesses against Respondent and to present evidence in defense and mitigation of the charges.

Respondent shall send a hard copy of the original signed Stipulation and Waiver to: Kyle Jones, Department of Real Estate, 1651 Exposition, Blvd., Sacramento, CA, 95815.

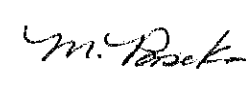
In the event of time constraints before an administrative hearing, Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by emailing a scanned copy of the signature page, as actually signed by Respondent, to the Department counsel assigned to this case. Respondent agrees, acknowledges and understands that by electronically sending the Department a scan of Respondent's actual signature as it appears on the Stipulation and Waiver, that receipt of the scan by the Department shall be binding on Respondent as if the Department had received the original signed Stipulation and Waiver.

January 15, 2019
Dated


CARLOS BERNARDO CARBAJAL, Respondent

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

January 15, 2019
Dated


MARGLYN E. PASEKA, Attorney for Respondent

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

IT IS SO ORDERED February 8, 2019

Samuel J. Smith.