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AUG 07 2019

DEPARTMENT OF REAL ESTATE

P. O. Box 137007

Sacramento, CA 95813-7007

DEPARTMENT OF REAL ESTATE

By 12 dww

Telephone: (916) 576-8700

Fax: (916) 263-3767

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Accusation of

ROGER PEREZ,

Respondent.

) DRE No. H-12334 SF

) STIPULATION AND AGREEMENT
) IN SETTLEMENT AND ORDER

It is hereby stipulated by and between ROGER PEREZ (Respondent), represented by Joshua A. Rosenthal, and the Complainant, acting by and through Megan Lee Olsen, Counsel for the Department of Real Estate (Department); as follows for the purpose of settling and disposing of the Accusation filed on January 24, 2019, 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 submitted solely on the basis of the provisions of this Stipulation and Agreement In Settlement and Order (Stipulation).

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

1 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges and understands that by withdrawing said Notice of Defense they will thereby
5 waive their right to require the Real Estate Commissioner (Commissioner) to prove the
6 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
7 APA and that they will waive other rights afforded to them in connection with the hearing such
8 as the right to present evidence in defense of the allegations in the Accusation and the right to
9 cross-examine witnesses.

10 4. This Stipulation is based on the factual allegations contained in the
11 Accusation. In the interest of expediency and economy, Respondent chose not to contest these
12 factual allegations, but to remain silent and understands that, as a result thereof, these factual
13 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set
14 forth below. The Commissioner shall not be required to provide further evidence to prove such
15 allegations.

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

23 6. The Order or any subsequent Order of the Commissioner made pursuant to
24 this Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or
25 civil proceedings by the Department of Real Estate with respect to any matters which were not
26 specifically alleged to be causes for accusation in this proceeding.
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1 8. Respondent understands that by agreeing to this Stipulation, Respondent
2 agrees to pay, pursuant to Section 10148 of the California Business and Professions Code
3 (Code), the cost of the audit which resulted in the violation(s) found in the Determination of
4 Issues. The amount of such costs is \$11,491.55.

5 9. Respondent further understands that by agreeing to this Stipulation, the
6 findings set forth below in the "Determination of Issues" become final, and that the
7 Commissioner may charge said Respondent for the costs of any audit conducted pursuant to
8 Section 10148 of the Code to determine if the violations have been corrected. The maximum
9 cost of said audit shall not exceed \$14,364.44.

10 DETERMINATION OF ISSUES

11 By reason of the foregoing stipulations, admissions and waivers, and solely for
12 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
13 that the acts and/or omissions of Respondent, as described in the Accusation, constitute grounds
14 for the suspension or revocation of the licenses and license rights of Respondent under the
15 provisions of Sections 10176 (e), 10177 (d), and 10177 (g) of the Code, in conjunction with
16 Sections 10130, 10145 of the Code, and Sections 2731, 2831, 2832, 2832.1, 2835 of Title 10 of
17 the California Code of Regulations .

18 ORDER

19 All licenses and licensing rights of ROGER PEREZ, under the Real Estate Law
20 are revoked; provided, however, a restricted real estate broker license shall be issued to
21 Respondent, pursuant to Section 10156.5 of the Code, if Respondent makes application therefore
22 and pays to the Department of Real Estate the appropriate fee for the restricted license within 90
23 days from the effective date of this Stipulation. The restricted license issued to Respondent shall
24 be subject to all of the provisions of Section 10156.7 of the Code and to the following
25 limitations, conditions, and restrictions imposed under authority of Section 10156.6 of the Code:

26 1. The restricted license issued to Respondent may be suspended prior to
27 hearing by Order of the Commissioner in the event of Respondent's conviction or plea of nolo

1 contendere to a crime which is substantially related to Respondent's fitness or capacity as a real
2 estate licensee.

3 2. The restricted license issued to Respondent may be suspended prior to
4 hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that
5 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
6 Law, Regulations of the Commissioner or conditions attaching to the restricted license.

7 3. Respondent shall not be eligible to apply for the issuance of any
8 unrestricted real estate license nor the removal of any of the conditions, limitations, or
9 restrictions of a restricted license until two (2) years have elapsed from the effective date of this
10 Stipulation. Respondent shall not be eligible to apply for any unrestricted licenses until all
11 restrictions attaching to the license have been removed.

12 4. Respondent shall, within nine (9) months from the effective date of this
13 Stipulation, present evidence satisfactory to the Commissioner that Respondent has, since the
14 most recent issuance of an original or renewal real estate license, taken and successfully
15 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
16 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
17 Respondent's real estate license shall automatically be suspended until Respondent presents
18 evidence satisfactory to the Commissioner of having taken and successfully completed the
19 continuing education requirements. Proof of completion of the continuing education courses
20 must be delivered to the Department of Real Estate, Flag Section, at P.O. Box 137013,
21 Sacramento, CA 95813-7013.

22 5. All licenses and licensing rights Respondent are indefinitely suspended
23 unless or until Respondent provides proof satisfactory to the Commissioner, of having taken and
24 successfully completed the continuing education course on trust fund accounting and handling
25 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
26 satisfaction of these requirements includes evidence that Respondent has successfully completed
27 the trust fund account and handling continuing education courses, no earlier than 120 days prior

1 to the effective date of the Decision and Order in this matter. Proof of completion of the trust
2 fund accounting and handling course must be delivered to the Department of Real Estate, Flag
3 Section at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the
4 effective date of this Decision and Order.

5 6. Pursuant to Section 10148 of the Code, Respondent pay the sum of
6 \$11,491.55 for the Commissioner's cost of the audit which led to this disciplinary action.
7 Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the
8 Commissioner. Payment of audit costs should not be made until Respondent receives the
9 invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein,
10 Respondent's real estate licenses shall automatically be suspended until payment is made in full,
11 or until a decision providing otherwise is adopted following a hearing held pursuant to this
12 condition.

13 7. Pursuant to Section 10148 of the Code, Respondent shall pay the
14 Commissioner's reasonable cost, not to exceed \$14,364.44 for an audit to determine if
15 Respondent has corrected the violations found in the "Determination of Issues". In calculating
16 the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated
17 average hourly salary for all persons performing audits of real estate brokers, and shall include an
18 allocation for travel time to and from the auditor's place of work. Respondent shall pay such cost
19 within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the
20 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
21 satisfy this condition in a timely manner as provided for herein, Respondent's real estate licenses
22 shall automatically be suspended until payment is made in full, or until a decision providing
23 otherwise is adopted following a hearing held pursuant to this condition.

24 8. All licenses and licensing rights of Respondent are indefinitely suspended
25 unless or until Respondent pays the sum of \$3,138.00 for the Commissioner's reasonable cost of
26 the investigation which led to this disciplinary action. Said payment shall be in the form of a
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1 cashier's check made payable to the Department of Real Estate, Flag Section at P.O. Box
2 137013, Sacramento, CA 95813-7013, prior to the effective date of this Stipulation.

3 6/25/19

4 DATED

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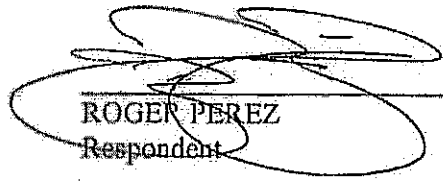
6 MEGAN LEE OLSEN, Counsel
7 DEPARTMENT OF REAL ESTATE

8 * * *

9 I have read the Stipulation and Agreement in Settlement and Order and its terms
10 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
11 rights given to me by the California Administrative Procedure Act (including but not limited
12 to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
13 intelligently, and voluntarily waive those rights, including the right of requiring the
14 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
15 right to cross-examine witnesses against me and to present evidence in defense and mitigation
16 of the charges. I understand that I must sign and return this Stipulation by fax to (916) 263-
17 3767 or by email to Megan.Olsen@dre.ca.gov. I further agree to mail the original Stipulation
18 no later than five days after signing it to: Department of Real Estate, Legal Section, P.O. Box
19 137007, Sacramento, California 95813-7007. I understand that failure to mail the original
20 back may result in this matter going to hearing.

21 June 16, 2019

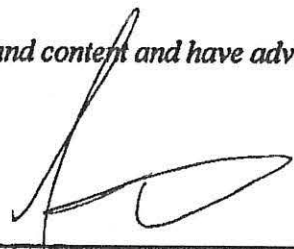
22 DATED

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24 ROGER PEREZ
25 Respondent
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I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.

6117719
DATED


JOSHUA A. ROSENTHAL
Attorney for Respondent

The foregoing Stipulation and Agreement In Settlement and Order is hereby
adopted by the Real Estate Commissioner as his Decision and Order and shall become effective
at 12 o'clock noon on AUG 28 2019

IT IS SO ORDERED August 6, 2019.

DANIEL J. SANDRI
ACTING REAL ESTATE COMMISSIONER

