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FILED

JUN 01 2023

DEPARTMENT OF REAL ESTATE

By B. Nicholas

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of

JERRY MENDEZ GUTIERREZ,

Respondent.

No. H-12637 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between JERRY MENDEZ GUTIERREZ (Respondent), represented by Mary Work, and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real Estate (Department), as follows for the purpose of settling and disposing of the Accusation filed on November 29, 2022, 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.

2. Respondent has received, read, and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department 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 that Respondent will thereby waive Respondent's right to require the Real Estate
5 Commissioner (Commissioner) to prove the allegations in the Accusation at a contested hearing
6 held in accordance with the provisions of the APA and that Respondent will waive other rights
7 afforded to Respondent in connection with the hearing such as the right to present evidence in
8 defense of the allegations in the Accusation and the right to cross-examine witnesses.

9 4. Respondent, pursuant to the limitations set forth below, hereby admits that
10 the factual allegations in the Accusation filed in this proceeding are true and correct and the
11 Commissioner shall not be required to provide further evidence to prove such allegations.

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

19 6. This Decision and Order or any subsequent Order of the Commissioner
20 made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar
21 to any further administrative or civil proceedings by the Department with respect to any matters
22 which were not specifically alleged in Accusation H-12637 SF.

23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations, admissions, and waivers and solely for the
25 purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that
26 the following Determination of Issues shall be made:

27 ///

I

The acts and/or omissions of Respondent as described in the Accusation violate Sections 490 and 10177(b) of the Business and Professions Code (Code).

ORDER

All licenses and licensing rights of Respondent JERRY MENDEZ GUTIERREZ under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to Respondent pursuant to Section 10156.5 of the Code if Respondent makes application therefor and pays to the Department the appropriate fee for the restricted license within 90 days from the effective date of this Decision and Order. The restricted license issued to Respondent shall be subject to all of the provisions of Section 10156.7 of the Code and to the following limitations, conditions and restrictions imposed under authority of Section 10156.6 of that Code:

1. The restricted license issued to Respondent may be suspended prior to hearing by Order of the Commissioner in the event of Respondent's conviction or plea of nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a real estate licensee.

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

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

1 4. Respondent shall submit with any application for license under an
2 employing broker, or any application for transfer to a new employing broker, a statement signed
3 by the prospective employing real estate broker on a form approved by the Department which
4 shall certify:

5 (a) That the employing broker has read the Decision and Order of the
6 Commissioner which granted the right to a restricted license; and

7 (b) That the employing broker will exercise close supervision over the
8 performance by the restricted licensee relating to activities for which a real
9 estate license is required.

10 5. Respondent shall, within nine (9) months from the effective date of this
11 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
12 since the most recent issuance of an original or renewal real estate license, taken and successfully
13 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
14 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
15 Respondent's real estate license shall automatically be suspended until Respondent presents
16 evidence satisfactory to the Commissioner of having taken and successfully completed the
17 continuing education requirement.

18 6. Respondent shall notify the Commissioner in writing within 72 hours of
19 any arrest by sending a certified letter to the Commissioner at the Department of Real Estate,
20 Post Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of
21 Respondent's arrest, the crime for which Respondent was arrested and the name and address of
22 the arresting law enforcement agency. Respondent's failure to timely file written notice shall
23 constitute an independent violation of the terms of the restricted license and shall be grounds for
24 the suspension or revocation of that license.

25 7. All licenses and licensing rights of Respondent are indefinitely suspended
26 unless or until Respondent pays the sum of \$1,213.05 for the Commissioner's reasonable cost of
27 the investigation and enforcement which led to this disciplinary action. Said payment shall be in

1 the form of a cashier's check made payable to the Department of Real Estate. The investigative
2 and enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O.
3 Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and
4 Order.

5
6 4 May 2023

7 DATED



TRULY SUGHRUE, Counsel
DEPARTMENT OF REAL ESTATE

8 * * *

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

16 Respondent and Respondent's attorney further agree to send the original signed
17 Stipulation by mail to the following address no later than one (1) week from the date the
18 Stipulation is signed by Respondent and Respondent's attorney: *Department of Real Estate,*
19 *Legal Section, P.O. Box 137007, Sacramento, California 95813-7007.* Respondent and
20 Respondent's attorney understand and agree that if they fail to return the original signed
21 Stipulation by the due date, Complainant retains the right to set this matter for hearing.

22
23 May 2, 2023

24 DATED

Jerry Mendez Gutierrez
Jerry Mendez Gutierrez (May 2, 2023 13:09 P01)

JERRY MENDEZ GUTIERREZ
Respondent

25 * * *

1 *I have reviewed the Stipulation and Agreement as to form and content and have*
2 *advised my clients accordingly.*

3
4 May 2, 2023

5 DATED

Mary E. Work

Mary E. Work (May 2, 2023 12:40 PM)

MARY WORK

Attorney for Respondent

6 * * *

7 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
8 Commissioner as his Decision and Order and shall become effective at 12 o'clock noon on
9 **JUN 22 2023**

10 IT IS SO ORDERED 5.26.23

11
12 DOUGLAS R. McCAULEY
13 REAL ESTATE COMMISSIONER

