

SACTO

Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

FILED
JUL 16 1999
DEPARTMENT OF REAL ESTATE
By [Signature]

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DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * * * *

In the Matter of the Accusation of) Case No. H-28080 LA
)
)
JOSEPH MUNOZ)
)
Respondent.)
_____)

STIPULATION AND AGREEMENT IN SETTLEMENT AND ORDER

I

STIPULATION

It is hereby stipulated by and between JOSEPH MUNOZ (herein "Respondent"), and the Complainant acting by and through Robert E. Baker, Counsel for the Department of Real Estate, as follows, for the purpose of settling and disposing of the Accusation filed on April 28, 1999.

A. 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

1 submitted solely on the basis of the provisions of this
2 Stipulation.

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

7 C. Heretofore, Respondent filed a Notice of Defense
8 pursuant to Section 11505 of the Government Code for the purpose
9 of requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice
11 of Defense. Respondent acknowledges that he understands that by
12 withdrawing said Notice of Defense, Respondent will thereby
13 waive Respondent's right to require the Commissioner to prove
14 the allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that Respondent
16 will waive other rights afforded to Respondent in connection
17 with the hearing such as the right to present evidence in his
18 defense and the right to cross examination.

19 D. Respondent does not admit or deny the factual
20 allegations in the Accusation, choosing to remain silent, but
21 agrees that said allegations provide a prima facie case for the
22 discipline set forth below and Stipulates, subject to the
23 limitations set forth below, that the Real Estate Commissioner
24 shall not be required to provide further evidence of such
25 allegations.

26 E. It is understood by the parties that the Real
27 Estate Commissioner may adopt the Stipulation and Agreement in



1 Settlement and Order as his decision in this matter hereby
2 imposing the penalty and sanctions on Respondent's real estate
3 license and license rights as set forth in the "Order" below.
4 In the event that the Commissioner in his discretion does not
5 adopt the Stipulation and Agreement in Settlement and Order, the
6 Stipulation and Agreement in Settlement and Order shall be void
7 and of no effect, and Respondent shall retain the right to a
8 hearing and proceeding on the Accusation under all the
9 provision of the APA and shall not be bound by an admission or
10 waiver made herein.

11 F. The Order or any subsequent Order of the Real
12 Estate Commissioner made pursuant to this Stipulation shall not
13 constitute an estoppel, merger or bar to any further
14 administrative or civil proceedings by the Department of Real
15 Estate with respect to any matters which have not already been
16 investigated and/or were not specifically alleged to be causes
17 for accusation in this proceeding.

18 II

19 DETERMINATION OF ISSUES

20 By reason of the foregoing stipulations, admissions
21 and waivers and solely for the purpose of settlement of the
22 pending Accusation without a hearing, it is stipulated and
23 agreed that the following Determination of Issues be made:

24 Respondent's conduct, as set forth in the Accusation,
25 is cause for the suspension or revocation of all licenses and
26 license rights of Respondent under the Real Estate Law pursuant
27 to Sections 10234 and 10177(d) of the Code.

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2 III

3 ORDER

4 WHEREFORE, THE FOLLOWING ORDER is hereby made:

5 A. The license and license rights of Respondent
6 JOSEPH MUNOZ under the provision of Part 1 of Division 4 of the
7 Business and Professions Code are hereby revoked.

8 B. A restricted real estate salesperson license shall
9 be issued to Respondent pursuant to Section 10156.5 of the Code
10 upon Respondent's application and payment of the appropriate
11 fee, provided the application is made within 180 days from the
12 effective date of the Decision here.

13 C. The restricted license issued to Respondent shall
14 be subject to all of the provisions of Section 10156.7 of the
15 Code and to the following limitations conditions and
16 restrictions imposed under authority of Section 10156.6 of the
17 Code:

18 1. The restricted license may be suspended
19 prior to hearing by Order of the Real Estate Commissioner in the
20 event that Respondent is convicted or enters a plea of nolo
21 contendere to a crime which bears a significant relationship to
22 the fitness or capacity of Respondent to the functions of a real
23 estate license.

24 2. The restricted license may be suspended
25 prior to hearing by Order of the Real Estate Commissioner on
26 evidence satisfactory to the Real Estate Commissioner that
27 Respondent has violated provisions of the California Real Estate



1 Law, the Subdivision Lands Law, Regulations of the Real Estate
2 Commissioner, or conditions attaching to the restricted license.

3 3. Respondent shall, prior to the issuance
4 of any restricted real estate salesperson license, present
5 evidence satisfactory to the Real Estate Commissioner that he
6 has, during the past four years, taken and successfully
7 completed the continuing education requirements of Article 2.5
8 of Chapter 3 of the Real Estate Law for renewal of a real estate
9 license.

10 4. Respondent shall not be eligible to
11 apply for the issuance of an unrestricted real estate license
12 nor the removal of any of the conditions, limitations or
13 restrictions of a restricted license until at least one year has
14 elapsed from the effective date of this Decision.

15 5. Respondent shall submit with his
16 application for said restricted license under an employing
17 broker, a statement signed by the prospective employing broker
18 which shall certify (1) That he or she has read the Decision of
19 the Commissioner which granted the right to a restricted license
20 and (2) that he or she will exercise close supervision over the
21 performance by the restricted licensee of activities for which a
22 real estate license is required.

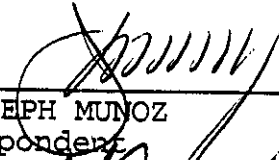
23 IV

24 EXECUTION OF STIPULATION

25 I have read the Stipulation and Agreement in
26 Settlement and its terms are understood by me and are agreeable
27 and acceptable to me. I understand that I am waiving rights

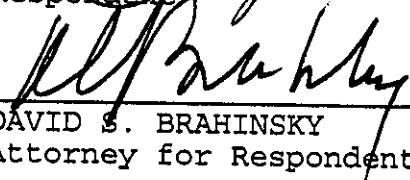
1 given to me by the California Administrative Procedure Act
2 (including) but not limited to Sections 11506, 11508, 11509 and
3 11513 of the Government Code), and I willingly, intelligently
4 and voluntarily waive those rights, including the right of
5 requiring the Commissioner to prove the allegation in the
6 Accusation at a hearing at which I would have the right to
7 cross-examine witnesses against me and to present evidence in
8 defense and mitigation of charges.

9 DATED: 6-25-99



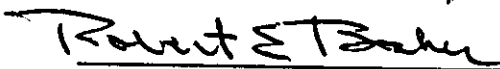
JOSEPH MUNOZ
Respondent

11 DATED: 6-25-99



DAVID S. BRAHINSKY
Attorney for Respondent

14 DATED: 6-25-99



ROBERT E. BAKER, Counsel
Attorney for Complainant

17 V

18 DECISION

19 The foregoing Stipulation and Agreement in Settlement
20 and Order is hereby adopted as the Decision and Order of the
21 Real Estate Commissioner in the above-entitled matter as to
22 Respondent JOSEPH MUNOZ.

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This Decision shall become effective at 12 o'clock
noon on AUG 05 1999.

IT IS SO ORDERED July 13, 1999.

JOHN R. LIBERATOR
Acting Real Estate Commissioner

John R. Liberator

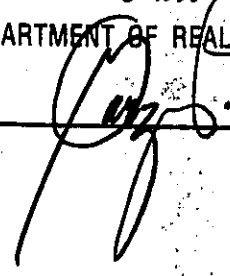
SACTO

198-0501-013
BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
MAY 20 1999
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of)
JOSEPH MUNOZ,)
Respondent.)

No. H-28080 LA By _____
NOTICE OF HEARING
L-1999 050 109



To the above-named Respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West 4th Street, Suite 350, Los Angeles, California 90013 on July 20, 1999 at 9:00 a.m. or as soon thereafter as the matter can be heard, upon the Accusation served upon you. If you object to the place of hearing, you must notify the presiding administrative law judge of the Office of Administrative Hearings within ten days will deprive you of a change in the place of the hearing.

You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are not entitled to the appointment of an attorney to represent you at public expense. You are entitled to represent yourself without legal counsel. If you are not present in person nor represented by counsel at the hearing, the Department may take disciplinary action against you based upon any express admission or other evidence including affidavits, without any notice to you.

You may present any relevant evidence and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to the Department of Real Estate.

The hearing shall be conducted in the English language. If you want to offer the testimony of any witness who does not proficiently speak the English language, you must provide your own interpreter and pay his or her costs. The interpreter must be certified in accordance with Sections 11435.30 and 11435.55 of the Government Code.

Dated: May 20, 1999

DEPARTMENT OF REAL ESTATE

By: Robert E Baker
ROBERT E. BAKER
Attorney-in-Charge

cc: Joseph Muñoz
LF, OAH & SACTO

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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and/or license rights of Respondent under the Real Estate Law and for such other and further relief as may be proper under applicable provisions of law.

Dated at Los Angeles, California this 26th day of April, 1999.


Deputy Real Estate Commissioner