

1 Department of Real Estate
2 320 West Fourth Street, Ste. 320
3 Los Angeles, California 90013

4 (213) 576-6913

FILED
OCT 27 2000
DEPARTMENT OF REAL ESTATE

By K. Gruberholt

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8 DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * * *

11 In the Matter of the Accusation of)
12 LEONARDO PADRON,)
13 Respondent.)
14 _____)

No. H-28565 LA

STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between LEONARDO PADRON
16 (sometimes referred to as Respondent), and his attorney, Frank M.
17 Buda, and the Complainant, acting by and through James R. Peel,
18 Counsel for the Department of Real Estate, as follows for the
19 purpose of settling and disposing of the Accusation filed on May
20 24, 2000, in this matter.

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

1
2 2. Respondent has received, read and understands the
3 Statement to Respondent, the Discovery Provisions of the APA and
4 the Accusation filed by the Department of Real Estate in this
5 proceeding.

6 3. On June 9, 2000, Respondent filed a Notice of
7 Defense, pursuant to Section 11506 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that he
11 understands that by withdrawing said Notice of Defense
12 he will thereby waive his right to require the Commissioner to
13 prove the allegations in the Accusation at a contested hearing
14 held in accordance with the provisions of the APA and that
15 he will waive other rights afforded to him in connection with the
16 hearing, such as the right to present evidence in defense of the
17 allegations in the Accusation and the right to cross-examine
18 witnesses.

19 4. Respondent, pursuant to the limitations set forth
20 below, although not admitting or denying the truth of the
21 allegations, will not contest the factual allegations contained in
22 the Accusation filed in this proceeding and the Real Estate
23 Commissioner shall not be required to provide further evidence of
24 such allegations.

25 5. It is understood by the parties that the Real Estate
26 Commissioner may adopt the Stipulation and Agreement as her
27 decision in this matter thereby imposing the penalty and sanctions
on Respondent's real estate license and license rights as set

1 forth below in the "Order". In the event that the Commissioner in
2 her discretion does not adopt the Stipulation and
3 Agreement, it shall be void and of no effect, and Respondent shall
4 retain the right to a hearing and proceeding on the Accusation
5 under the provisions of the APA and shall not be bound by any
6 stipulation or waiver made herein.
7

8 6. The Order or any subsequent Order of the Real
9 Estate Commissioner made pursuant to this Stipulation and
10 Agreement shall not constitute an estoppel, merger or bar to
11 any further administrative or civil proceedings by the
12 Department of Real Estate with respect to any matters which
13 were not specifically alleged to be causes for accusation in
14 this proceeding.

15 7. This Stipulation is entered into by each party
16 with the express understanding and agreement that it is to be
17 used for the purposes of settling these proceedings only and
18 that this Stipulation shall not be deemed, used, or accepted
19 as an acknowledgment or stipulation in any other civil or
20 administrative proceeding to which this Department is not a
21 party.

22 DETERMINATION OF ISSUES

23 By reason of the foregoing stipulations and waivers
24 and solely for the purpose of settlement of the pending
25 Accusation without a hearing, it is stipulated and agreed
26 that the following determination of issues shall be made:
27

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I

The conduct of Respondent, LEONARDO PADRON, as alleged in the Accusation, is grounds for the suspension or revocation of all of the real estate licenses and license rights of Respondent under the provisions of Regulations 2731, 2832, 2832.1 and 2950(h) and Sections 10145(a), 10177(d) and 10177(g) of the Business and Professions Code.

ORDER

All licenses and license rights of Respondent LEONARDO PADRON under the Real Estate Law are suspended for a period of sixty (60) days from the effective date of this Order; provided, however, that thirty (30) days of said suspension shall be stayed for two years upon the following terms and conditions:

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

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

3. Pursuant to Section 10148 of the Business and Professions Code, Respondent shall pay the Commissioner's

1 reasonable cost for: a) the audit which led to this
2 disciplinary action and, b) a subsequent audit to determine
3 if Respondent has corrected the trust fund violation(s) found
4 in paragraph I of the Determination of Issues. In
5 calculating the amount of the Commissioner's reasonable cost,
6 the Commissioner may use the estimated average hourly salary
7 for all persons performing audits of real estate brokers, and
8 shall include an allocation for travel costs, including
9 mileage, time to and from the auditor's place of work and per
10 diem. Respondent shall pay such cost within 60 days of
11 receiving an invoice from the Commissioner detailing the
12 activities performed during the audit and the amount of time
13 spent performing those activities. The Commissioner may, in
14 her discretion, vacate and set aside the stay order, if
15 payment is not timely made as provided for herein, or as
16 provided for in a subsequent agreement between the Respondent
17 and the Commissioner. The vacation and the set aside of the
18 stay shall remain in effect until payment is made in full, or
19 until Respondent enters into an agreement satisfactory to the
20 Commissioner to provide for payment. Should no order
21 vacating the stay be issued, either in accordance with this
22 condition or condition "2", the stay imposed herein shall
23 become permanent.

24 4. Provided further, that the remaining thirty (30)
25 days of said 60 day suspension shall be stayed on condition
26 that:
27



1
2 a. Respondent pays a monetary penalty pursuant to
3 Section 10175.2 of the Business and Professions
4 Code at the rate of \$50 for each day of the
5 suspension for a total monetary penalty of \$1,500.

6 b. Said payment shall be in the form of a
7 cashier's check or certified check made payable to
8 the Recovery Account of the Real Estate Fund. Said
9 check must be delivered to the Department prior to
10 the effective date of the Decision in this matter.

11 c. That no final subsequent determination be made,
12 after hearing or upon stipulation that cause for
13 disciplinary action occurred within two years of
14 the effective date of this Order. Should such a
15 determination be made, the Commissioner may, in her
16 discretion vacate and set aside the stay order and
17 reimpose all or a portion of the stayed suspension.
18 Should no such determination be made, the stay
19 imposed herein shall become permanent.

20 5. As a further condition of staying any part of
21 the 60 day suspension, Respondent shall submit to the
22 Department of Real Estate satisfactory proof that all
23 shortages in his trust accounts have been cured.

24 DATED: SEPT. 6, 2000

25 James R. Peel
26 JAMES R. PEEL
27 Counsel for Complainant

* * * * *

I have read the Stipulation and Agreement in Settlement, 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.

DATED: 8-31-00


LEONARDO PADRON
Respondent

DATED: 8-28-00


FRANK M. BUDA, ESQ.
Counsel for Respondent

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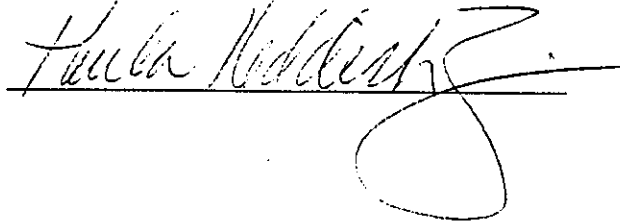
* * * * *

The foregoing Stipulation and Agreement is hereby
adopted as my Decision in this matter and shall become
effective at 12 o'clock noon on November 16, 2000.

IT IS SO ORDERED

October 23, 2000.

PAULA REDDISH ZINNEBANN
Real Estate Commissioner





facto plus

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

FILED
JUL - 5 2000
DEPARTMENT OF REAL ESTATE

In the Matter of the Accusation of

LEONARDO PADRON,

By K. Medved

Case No. H-28565 LA

OAH No. L-2000060348

Respondent

NOTICE OF HEARING ON ACCUSATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at Office of Administrative Hearings, 320 West Fourth St., Ste. 630, Los Angeles on August 23, 2000, at the hour of 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 (10) days after this notice is served on you. Failure to notify the presiding administrative law judge 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.

DEPARTMENT OF REAL ESTATE

Dated: July 5, 2000

By

James R. Peel

Counsel

cc: Leonardo Padron
Sacto
OAH
JP

Frank M. Buda, Esq.

RE 501 (Rev. 8/97)

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Back Page

JAMES R. PEEL, Counsel
Department of Real Estate
320 W. Fourth St., Room 350
Los Angeles, California 90013
State Bar 47055

FILED
MAY 24 2000
DEPARTMENT OF REAL ESTATE

(213) 576-6982
576-6913(direct)

By K. Hinderholt

DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * * *

In the Matter of the Accusation of	)	NO. H-28565 LA
	)	
LEONARDO PADRON,	)	<u>A C C U S A T I O N</u>
	)	
	)	
Respondent.	)	

The Complainant, Thomas McCrady, a Deputy Real Estate Commissioner of the State of California, for cause of Accusation against LEONARDO PADRON, alleges as follows:

I

The Complainant, Thomas McCrady, acting in his official capacity as a Deputy Real Estate Commissioner of the State of California makes this Accusation against LEONARDO PADRON.

II

LEONARDO PADRON, (hereinafter referred to as respondent) is presently licensed and/or has license rights under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code, hereinafter "Code").

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III

At all times herein mentioned, respondent LEONARDO PADRON was licensed by the Department of Real Estate of the State of California as a real estate broker.

IV

At all times herein mentioned, respondent, on behalf of others in expectation of compensation, engaged in the business, acted in the capacity of, advertised or assumed to act as a real estate broker in the State of California within the meaning of Section 10131(a) of the Code, including soliciting buyers and sellers and negotiating the sale of real property.

V

During 1998 and 1999, in connection with the aforesaid real estate brokerage activities, respondent accepted or received funds from buyers and sellers and thereafter made disbursements of such funds.

VI

In connection with respondent's activities as a real estate broker as described above, respondent acted in violation of the Real Estate Law, Business and Professions Code (hereinafter Code), and California Code of Regulations (hereinafter Regulations), Title 10, Chapter 6, as follows:

1. Violated Section 10145(a) of the Code and Regulation 2832.1 by maintaining a shortage in his trust account as of August 31, 1999, in the amount of \$2,152.47.



2. Violated Regulation 2832 in that his trust was not in the broker's name as trustee.

3. Violated Regulation 2731 by using the unlicensed fictitious business name Powerhouse Escrow Division in his real estate brokerage escrow business.

4. Violated Regulation 2950(h) by failing to advise all parties in writing of his ownership interest in the agency holding the escrow.

5. Violated Section 17003 and following of the Financial Code by handling escrows for which he was not properly licensed nor exempt per Section 17006(a)(4) of the Financial Code.

VII

The conduct of respondent, as alleged above, subjects his real estate licenses and license rights to suspension or revocation pursuant to Sections 10177(d) and 10177(g) of the Code.

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 licensing rights of respondent LEONARDO PADRON under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provisions of law.

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Dated at Los Angeles, California
this 24th day of May, 2000.

THOMAS MC CRADY
Deputy Real Estate Commissioner

cc: Leonardo Padron
Sacto
JP