

1 Department of Real Estate
320 West Fourth Street, Suite 350
2 Los Angeles , CA 90013

3 Telephone: (213) 576-6982
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6
7 DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9
10 *In the Matter of the Application of*

11 NICHOLAS MICHAEL CARLO,

12
13 Respondent

) No. H- 30148 LA

) L-2003060891

) STIPULATION AND
) WAIVER

14 It is hereby stipulated by and between NICHOLAS MICHAEL CARLO, (hereinafter "Respondent")
15 and Respondent's attorney, Nancy G. Wanski, Esq, Law Offices of Arthur H. Barends, and the Complainant,
16 acting by and through Martha J. Rosett, Counsel for the Department of Real Estate, as follows for the
17 purpose of settling and disposing of the Statement of Issues filed on June 11, 2003 in this matter:

18 Respondent acknowledges that Respondent has received and read the Statement of Issues and the
19 Statement to Respondent filed by the Department of Real Estate in connection with Respondent's
20 application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner
21 may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's
22 honesty and truthfulness and to prove other allegations therein, or that she may in her discretion waive the
23 hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and
24 Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate
25 Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meet all
26 the requirements for issuance of a real estate salesperson license. Respondent further understands that by
27 entering into this stipulation and waiver Respondent will be stipulating that the Real Estate Commissioner

1 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance
2 to Respondent of an unrestricted real estate salesperson license.

3 Respondent hereby admits that the allegations of the Statement of Issues filed against Respondent are
4 true and correct and requests that the Real Estate Commissioner in her discretion issue a restricted real
5 estate salesperson license to Respondent under the authority of Section 10156.5 of the Business and
6 Professions Code. Respondent understands that any such restricted license will be issued subject to and be
7 limited by Section 10153.4 of the Business and Professions Code.

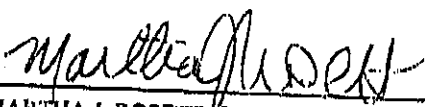
8 Respondent is aware that by signing this Stipulation and Waiver, Respondent is waiving Respondent's
9 right to a hearing and the opportunity to present evidence at the hearing to establish Respondent's
10 rehabilitation in order to obtain an unrestricted real estate salesperson license if this Stipulation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

14 Respondent further understands that the following conditions, limitations, and restrictions will attach
15 to a restricted license issued by the Department of Real Estate pursuant hereto:

- 16 1. The license shall not confer any property right in the privileges to be exercised including the
17 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
18 to exercise any privileges granted under this restricted license in the event of:
 - 19 a. The conviction of Respondent (including a plea of nolo contendere) to a crime which bears
20 a substantial relationship to Respondent's fitness or capacity as a real estate licensee; or
 - 21 b. The receipt of evidence that Respondent has violated provisions of the California Real
22 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or
23 conditions attaching to this restricted license.
- 24 2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license
25 nor the removal of any of the conditions, limitations or restrictions attaching to the restricted
26 license until two years have elapsed from the date of issuance of the restricted license to
27 Respondent.

3. With the application for license, or with the application for transfer to a new employing broker,
Respondent shall submit a statement signed by the prospective employing broker on a form
approved by the Department of Real Estate wherein the employing broker shall certify as
follows:
- a. That broker has read the Statement of Issues which is the basis for the issuance of the
restricted license; and
 - b. That broker will carefully review all transaction documents prepared by the restricted
licensee and otherwise exercise close supervision over the licensee's performance of acts
for which a license is required.
4. Respondent's restricted real estate salesperson license is issued subject to the requirements of
Section 10153.4 of the Business and Professions Code, to wit: Respondent is required, within
eighteen (18) months of the issuance of the restricted license, to submit evidence satisfactory to
the Commissioner of successful completion, at an accredited institution, of two of the courses
listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate,
advanced real estate finance, or advanced real estate appraisal. If Respondent fails to timely
present to the Department satisfactory evidence of successful completion of the two required
courses, the restricted license shall be automatically suspended effective eighteen (18) months
after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of
the restricted license, Respondent has submitted the required evidence of course completion and
the Commissioner has given written notice to Respondent of the lifting of the suspension.
5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified
license under Section 10153.4, Respondent shall not be entitled to renew the restricted license,
and shall not be entitled to the issuance of another license which is subject to Section 10153.4
until four years after the date of the issuance of the preceding restricted license.

12/04/03
Dated

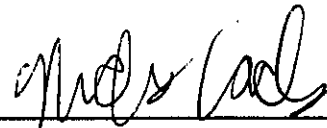

MARTHA J. ROSETT, Counsel, Department of Real Estate

- 1 3. With the application for license, or with the application for transfer to a new employing broker,
2 Respondent shall submit a statement signed by the prospective employing broker on a form
3 approved by the Department of Real Estate wherein the employing broker shall certify as
4 follows:
- 5 a. That broker has read the Statement of Issues which is the basis for the issuance of the
6 restricted license; and
- 7 b. That broker will carefully review all transaction documents prepared by the restricted
8 licensee and otherwise exercise close supervision over the licensee's performance of acts
9 for which a license is required.
- 10 4. Respondent's restricted real estate salesperson license is issued subject to the requirements of
11 Section 10153.4 of the Business and Professions Code, to wit: Respondent is required, within
12 eighteen (18) months of the issuance of the restricted license, to submit evidence satisfactory to
13 the Commissioner of successful completion, at an accredited institution, of two of the courses
14 listed in Section 10153.2, other than real estate principles, advanced legal aspects of real estate,
15 advanced real estate finance, or advanced real estate appraisal. If Respondent fails to timely
16 present to the Department satisfactory evidence of successful completion of the two required
17 courses, the restricted license shall be automatically suspended effective eighteen (18) months
18 after the date of its issuance. Said suspension shall not be lifted unless, prior to the expiration of
19 the restricted license, Respondent has submitted the required evidence of course completion and
20 the Commissioner has given written notice to Respondent of the lifting of the suspension.
- 21 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified
22 license under Section 10153.4, Respondent shall not be entitled to renew the restricted license,
23 and shall not be entitled to the issuance of another license which is subject to Section 10153.4
24 until four years after the date of the issuance of the preceding restricted license.

25
26 _____
27 Dated

, Counsel, Department of Real Estate

I have read the Stipulation and Waiver, have discussed it with my counsel, 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 a hearing on the Statement of Issues at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

10/24/03
Dated
NICHOLAS MICHAEL CARLO, Respondent

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

10-24-03
Dated
NANCY G. WANSKI, ESQ., Attorney for Respondent

I have read the Stipulation and Waiver, have discussed it with my counsel, 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 a hearing on the Statement of Issues 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

, Respondent

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

Dated

, Attorney for Respondent

I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a restricted real estate salesperson license to Respondent.

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.

This Order is effective immediately.

IT IS SO ORDERED on December 3, 2003.


Paula Reddish Zinnemann
Real Estate Commissioner

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-30148 LA
)
NICHOLAS MICHAEL CARLO,) OAH No. L-2003060891
)
_____) Respondent(s)

FILE
SEP 12 2003
DEPARTMENT OF REAL ESTATE

NOTICE OF CONTINUED HEARING ON APPLICATION 62

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY, OCTOBER 28, 2003, at the hour of 1:30 P.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

The burden of proof is upon you to establish that you are entitled to the license or other action sought. If you are not present nor represented at the hearing, the Department may act upon your application without taking evidence.

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: September 12, 2003

By

Martha J. Rosett
MARTHA J. ROSETT, Counsel

cc: Nicholas Michael Carlo
Arthur H. Barens, Esq./Nancy G. Wanski, Esq.
Sacto.
OAH

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BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of) Case No. H-30148 LA
)
NICHOLAS MICHAEL CARLO,) OAH No. L-2003060891
)

Respondent(s)

FILED
JUL 14 2003
DEPARTMENT OF REAL ESTATE

NOTICE OF HEARING ON APPLICATION

To the above-named Respondent(s):

You are hereby notified that a hearing will be held before the Department of Real Estate at the Office of Administrative Hearings, 320 West Fourth Street, Suite 630, Los Angeles, CA 90013-1105 on TUESDAY, AUGUST 26, 2003, at the hour of 1:30 P.M., or as soon thereafter as the matter can be heard, upon the Statement of Issues 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.

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DEPARTMENT OF REAL ESTATE

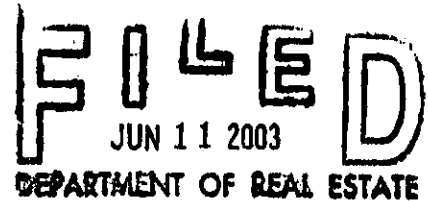
Dated: July 14, 2003

By Marttha J. Rosett
MARTHA J. ROSETT, Counsel

cc: Nicholas Michael Carlo
Arthur H. Barens, Esq.
Sacto.
OAH

1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth St. #350
4 Los Angeles, CA 90013

5 (213) 576-6982
6 (213) 576-6914



7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Application of) No. H-30148 LA
12 NICHOLAS MICHAEL CARLO,)
13 Respondent.)
14

STATEMENT OF ISSUES

15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for Statement of Issues
17 against NICHOLAS MICHAEL CARLO (hereinafter "Respondent"),
18 alleges in her official capacity as follows:

19 1:

20 On or about July 18, 2002, pursuant to the provisions
21 of Section 10153.3 of the Business and Professions Code ("Code"),
22 Respondent made application to the Department of Real Estate of
23 the State of California for a real estate salesperson license
24 with the knowledge and understanding that any license issued as a
25 result of said application would be subject to the conditions of
26 Section 10153.4 of the Code.
27

2.

On or about July 26, 2000, in the United States District Court, New York Eastern District (Brooklyn), in Case No. 98-CR-1121-1, Respondent was convicted of violating 21 U.S.C. 846, 841(b)(1)(B)(viii) and 841(b)(1)(C) and 18 U.S.C. Section 3551 et seq. (conspiracy to possess with intent to distribute methamphetamine and MDMA), a felony and crime of moral turpitude which is substantially related to the qualifications, functions and duties of a real estate licensee. Respondent was sentenced to time served and four years supervised release, the terms and conditions of which included undergoing substance abuse testing and treatment.

3.

Respondent's conviction, as set forth in Paragraph 2 above, constitutes grounds for denial of Respondent's application for a real estate license pursuant to Code Sections 480(a) and 10177(b).

These proceedings are brought under the provisions of Section 10100, Division 4 of the Business and Professions Code of the State of California and Sections 11500 through 11528 of the Government Code.

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1 WHEREFORE, the Complainant prays that the above-entitled
2 matter be set for hearing and, upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of, a real estate salesperson
5 license to Respondent NICHOLAS MICHAEL CARLO and for such other
6 and further relief as may be proper under the law.

7 Dated at Los Angeles, California

8 this 14th day of June, 2003.

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12 Deputy Real Estate Commissioner
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23 cc: Nicholas Michael Carlo
24 Sacto.
25 Maria Suarez
26 LF
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