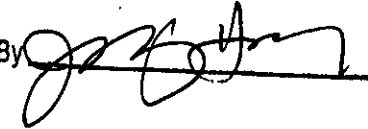


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1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105
4 Telephone: (213) 576-6982

FILED
JAN 29 2004
DEPARTMENT OF REAL ESTATE

By 

5
6
7 **DEPARTMENT OF REAL ESTATE**
8 **STATE OF CALIFORNIA**

9
10 *In the Matter of the Application of*

11 **RICHARD A. MONTES,**

12
13 Respondent

) No. H- 30389 LA
) L-2003110365
)
) **STIPULATION AND**
) **WAIVER**
)
)

14
15 It is hereby stipulated by and between RICHARD A. MONTES (hereinafter "Respondent") and
16 Respondent's attorney, Jeffrey T. Osborn, and the Complainant, acting by and through Mary E. Work,
17 Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the
18 Statement of Issues filed on October 15, 2003 in this matter:

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

1 entering into this stipulation and waiver, Respondent will be stipulating that the Real Estate Commissioner
2 has found that Respondent has failed to make such a showing, thereby justifying the denial of the issuance
3 to Respondent of an unrestricted real estate broker license.

4 Respondent hereby admits that the allegations of the Statement of Issues filed against Respondent are
5 true and correct and requests that the Real Estate Commissioner in his discretion issue a restricted real
6 estate broker license to Respondent under the authority of Section 10156.5 of the Business and Professions
7 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 broker license if this Stipulation and Waiver is
11 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.

1-8-04

Dated

MARY E. WORK, 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.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his actual signature as it appears on the Stipulation and Waiver, that receipt of the faxed copy by the Department shall be as binding on Respondent as if the Department had received the original signed Stipulation and Waiver.

01-13-04

Dated

RICHARD A. MONTES, Respondent

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

1-13-04

Dated

JEFFREY T. OSBORN, 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 broker 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 Jan. 23, 2004.

JOHN R. LIBERATOR
CHIEF DEPUTY COMMISSIONER



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DEPARTMENT OF REAL ESTATE

By

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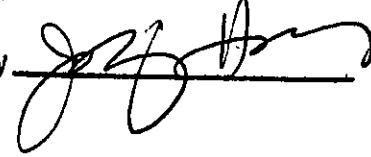
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FILED
OCT 15 2003

DEPARTMENT OF REAL ESTATE

By



BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of
RICHARD A. MONTES,
Respondent.

No. H-30389LA

STATEMENT OF ISSUES

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Statement of Issues against RICHARD A. MONTES (hereinafter "Respondent"), is informed and alleges as follows:

I

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues against Respondent in her official capacity.

II

Respondent made application to the Department of Real Estate of the State of California (hereinafter "Department") for a real estate broker license on or about May 14, 2002.

1 Respondent is currently licensed as a real estate salesperson
2 license.

3
4 III

5 On or about March 3, 1997, in the Municipal Court of
6 Orange County Harbor Judicial District, County of Orange, State
7 of California, Case No. IRH 97HM01514, Respondent, upon his plea
8 guilty, was convicted of violating Vehicle Code Sections 23152(a)
9 and 23152(b), (Driving Under the Influence of Alcohol and Driving
10 with Blood Alcohol .08% or More respectively) misdemeanor crimes
11 that are substantially related under Section 2910, Title 10,
12 Chapter 6, California Code of Regulations to the qualifications,
13 functions and duties of a real estate licensee.

14 IV

15 On or about December 13, 1999, in the Municipal Court
16 of California, Los Angeles Judicial District, in Case No.
17 9MT10926, Respondent, upon his plea of guilty, was convicted of
18 violating Vehicle Code Sections 23152(b) misdemeanor conviction
19 that included a charge that Respondent had on his record the
20 convictions describe above in Paragraph III and a crime involving
21 moral turpitude that is substantially related under Section 2910,
22 Title 10, Chapter 6, California Code of Regulations to the
23 qualifications, functions or duties of a real estate licensee.

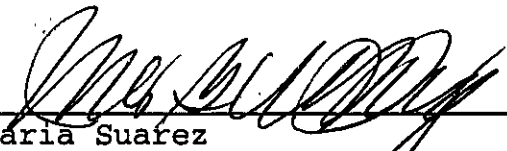
24 V

25 The crimes that Respondent was convicted of, as set
26 forth above, constitute grounds for denial of Respondent's
27

1 application for a real estate license under Sections 475(a)(2),
2 480(a)(1) and 10177(b) of the Code.

3
4 The Statement of Issues is brought under the provisions
5 of Section 10100, Division 4 of the Business and Profession Code
6 of the State of California and Sections 11500 through 11529 of
7 the Government Code.

8 WHEREFORE, Complainant prays that the above entitled
9 matter be set for hearing and, upon proof of the charges
10 contained herein, that the Commissioner refuse to authorize the
11 issuance of, and deny the issuance of, a real estate broker
12 license to Respondent, RICHARD A. MONTES, and for such other and
13 further relief as may be proper under other provisions of law.

14
15 
16 Maria Suarez
Deputy Real Estate Commissioner

17 Dated at Los Angeles, California
18 this *Jth* day of October, 2003.

19
20 cc: Richard A. Montes
21 Maria Suarez
22 SACTO
23 LM
24
25
26
27