

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

FILED
MAY 24 2004
DEPARTMENT OF REAL ESTATE

By K. Frederholt

BEFORE THE
DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	
JORGE ABEL CABRERA,)	NO. H-30641 LA
Respondent.)	<u>STIPULATION</u>
	<u>AND WAIVER</u>

It is hereby stipulated by and between JORGE ABEL CABRERA (hereinafter "Respondent") and his attorney, Frank M. Buda, and the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed on January 21, 2004, in this matter:

A. Respondent acknowledges that he has received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate in connection with his application for a real estate broker license. Respondent understands that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further

1 proof of Respondent's honesty and truthfulness and to prove other
2 allegations therein, or that he may in his discretion waive the
3 hearing and grant Respondent a restricted real estate broker
4 license based upon this Stipulation and Waiver. Respondent also
5 understands that by filing the Statement of Issues in this matter
6 the Real Estate Commissioner is shifting the burden to Respondent
7 to make a satisfactory showing that Respondent meets all the
8 requirements for issuance of a real estate broker license.
9 Respondent further understands that by entering into this
10 stipulation and waiver, Respondent will be stipulating that the
11 Real Estate Commissioner has found that Respondent has failed
12 to make such a showing, thereby justifying the denial of the
13 issuance to Respondent of an unrestricted real estate broker
14 license.

15 B. Respondent hereby admits that the allegations of
16 the Statement of Issues filed against Respondent are true and
17 correct and requests that the Real Estate Commissioner in his
18 discretion issue a restricted real estate broker license to
19 Respondent under the authority of Section 10156.5 of the Business
20 and Professions Code.

21 C. Respondent is aware that by signing this
22 Stipulation and Waiver, Respondent is waiving Respondent's right
23 to a hearing and the opportunity to present evidence at the
24 hearing to establish Respondent's rehabilitation in order to
25 obtain an unrestricted real estate broker license if this
26 Stipulation and Waiver is accepted by the Real Estate
27 Commissioner. However, Respondent is not waiving Respondent's

1 right to a hearing and to further proceedings to obtain a
2 restricted or unrestricted license if this Stipulation and Waiver
3 is not accepted by the Commissioner.

4 D. Respondent further understands that the following
5 conditions, limitations, and restrictions will attach to a
6 restricted license issued by the Department of Real Estate
7 pursuant hereto:

8 1. The license shall not confer any property
9 right in the privileges to be exercised
10 including the right of renewal, and the Real
11 Estate Commissioner may by appropriate order
12 suspend the right to exercise any privileges
13 granted under this restricted license in the
14 event of:

- 15 a. The conviction of Respondent (including a
16 plea of nolo contendere) to a crime which
17 bears a substantial relationship to
18 Respondent's fitness or capacity as a real
19 estate licensee; or
- 20 b. The receipt of evidence that Respondent has
21 violated provisions of the California Real
22 Estate Law, the Subdivided Lands Law,
23 Regulations of the Real Estate
24 Commissioner, or conditions attaching to
25 this restricted license.

26 2. Respondent shall not be eligible to apply for
27 the issuance of an unrestricted real estate

1 license nor the removal of any of the
2 conditions, limitations or restrictions
3 attaching to the restricted license until two
4 years have elapsed from the date of issuance of
5 the restricted license to Respondent.

6 3. Six months after the issuance of the restricted
7 license, Respondent shall provide proof
8 acceptable to the Real Estate Commissioner
9 that, during the preceding six months,
10 Respondent has, each and every week, attended
11 one or more sessions of Alcoholics Anonymous,
12 or that such attendance in any week was
13 impractical due to travel for work, the illness
14 of Respondent or a member of Respondent's
15 family, vacation, incarceration, residential
16 treatment for substance abuse, extreme personal
17 hardship for Respondent or a member of
18 Respondent's family, or family emergency. The
19 Commissioner may suspend the restricted license
20 issued to respondent pending a hearing held in
21 accordance with Section 11500, et seq., of the
22 Government Code, if such proof is not timely
23 submitted as provided for herein, or as
24 provided for in a subsequent agreement between
25 the Respondent and the Commissioner. The
26 suspension shall remain in effect until such
27 proof is submitted or until Respondent enters

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FRANK BLIDA ESQ.

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1 into an agreement satisfactory to the
2 Commissioner to provide such proof, or until a
3 decision providing otherwise is adopted
4 following a hearing held pursuant to this
5 condition.
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8 DATED

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ELLIOTT MAC LENNAN, COUNSEL
DEPARTMENT OF REAL ESTATE

* * *

1 I have read the Stipulation and Waiver, have
2 discussed it with my counsel, and its terms are understood by
3 me and are agreeable and acceptable to me. I understand that I
4 am waiving rights given to me by the California Administrative
5 Procedure Act (including but not limited to Sections 11506,
6 11508, 11509, and 11513 of the Government Code), and I
7 willingly, intelligently, and voluntarily waive those rights,
8 including the right of a hearing on the Statement of Issues at
9 which I would have the right to cross-examine witnesses against
10 me and to present evidence in defense and mitigation of the
11 charges.
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04/28/04
DATED

JORGE ABEL CABRERA
Respondent

FILE NO. H-30641 LA

- 5 -

JORGE ABEL CABRERA

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

3
4 4-28-04

5 DATED

6 

7 FRANK M. BUDA, ESQ.
8 Attorney for Respondent

9 * * *

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

17 Therefore, IT IS HEREBY ORDERED that a restricted real
18 estate broker license be issued to Respondent, if Respondent has
19 otherwise fulfilled all of the statutory requirements for
20 licensure. The restricted license shall be limited, conditioned,
21 and restricted as specified in the foregoing Stipulation and
22 Waiver.

23 This Order is effective immediately.

24 IT IS SO ORDERED _____, 2004.

25 JOHN R. LIBERATOR
26 Acting Real Estate Commissioner

1 I have reviewed the Stipulation and Agreement as to
2 form and content and have advised my client accordingly.
3

4 _____
5 DATED.

FRANK M. BUDA, ESQ.
Attorney for Respondent

6
7 * * *

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

15 Therefore, IT IS HEREBY ORDERED that a restricted real
16 estate broker license be issued to Respondent, if Respondent has
17 otherwise fulfilled all of the statutory requirements for
18 licensure. The restricted license shall be limited, conditioned,
19 and restricted as specified in the foregoing Stipulation and
20 Waiver.

21 This Order is effective immediately.

22 IT IS SO ORDERED May 19, 2004.
23

24 JOHN R. LIBERATOR
25 Acting Real Estate Commissioner

26 John R. Liberator
27

Anders

**BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA**

FILED
APR 20 2004
DEPARTMENT OF REAL ESTATE

In the Matter of the Application of

JORGE ABEL CABRERA,

By *K. Medeiros*

} Case No. H-30641 LA

} OAH No. L-2004030782

Respondent

NOTICE OF HEARING ON APPLICATION

To the above named respondent:

You are hereby notified that a hearing will be held before the Department of Real Estate at 320 W. Fourth Street, Ste. 630, Los Angeles, California on April 30, 2004, at the hour of 9:00 a.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: APR 20 2004

By *EL*

ELLIOTT MAC LENNAN, Counsel

cc: Jorge Abel Cabrera
Frank M. Buda, Esq.
Sacto/OAH/AE

*Adler
JLH*

FILED
JAN 21 2004
DEPARTMENT OF REAL ESTATE

ELLIOTT MAC LENNAN, SBN 66674
Department of Real Estate
320 West 4th Street, Ste. 350
Los Angeles, California 90013-1105

Telephone: (213) 576-6911 (direct)
-or- (213) 576-6982 (office)

By *R. Knecht*

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of
JORGE ABEL CABRERA,
Respondent.

No. H-30641LA

STATEMENT OF ISSUES

The Complainant, Maria Suarez, a Deputy Real Estate
Commissioner of the State of California, for Statement of Issues
against JORGE ABEL CABRERA ("respondent") is informed and alleges
in her official capacity as follows:

1.

On November 4, 2002, respondent made application to the
Department of Real Estate of the State of California for a real
estate broker license.

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1 2.

2 Respondent is presently licensed and/or has license
3 rights as a real estate salesperson under the Real Estate Law
4 (Part 1 of Division 4 of the California Business and Professions
5 Code) (Code).

6 3.

7 Respondent was originally licensed by the Department of
8 Real Estate of the State California as a real estate salesperson
9 on September 18, 1999.

10 4.

11 On January 25, 2001, in the Orange County Superior
12 Court, State of California, in Case No. 00HM08523, respondent was
13 convicted upon a guilty plea to one count of California Vehicle
14 Code Section 23152(b) (D.U.I), a misdemeanor.

15 5.

16 On June 17, 1999, in the Orange County Superior Court,
17 State of California, in Case No. 99SM57853, respondent was
18 convicted upon a guilty plea to one count of California Vehicle
19 Code Section 23152(a) (D.U.I), a misdemeanor.

20 6.

21 The crimes set forth in Paragraphs 4 and 5, by their
22 facts and circumstances, are substantially related under Section
23 2910(a)(11), Chapter 6, Title 10 of the California Code of
24 Regulations, to the qualifications, functions or duties of a real
25 estate licensee.
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1 LACK OF REHABILITATION

2 7.

3 The 2001 DUI was committed while respondent was on
4 probation for the 1999 DUI. Respondent violated his probation
5 six (6) times between January 12, 2000 and June 7, 2001. Under
6 the Criteria of Rehabilitation provided for by Title 10, Chapter
7 6, Section 2911(n) of the California Code of Regulations,
8 respondent has not demonstrated a change in attitude from that
9 which existed at the time of the commission of the 2001 crime and
10 is therefore not rehabilitated.
11

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

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1 WHEREFORE, the Complainant prays that 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 broker
5 license to Respondent JORGE ABEL CABRERA, and for such other and
6 further relief as may be proper in the premises.

7 Dated at Los Angeles, California

8 this *20th* day of *January* 2004.
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12 Deputy Real Estate Commissioner
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22 cc: Jorge Abel Cabrera
23 Sacto.
24 AE
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