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

**FILED**  
AUG - 8 2005  
DEPARTMENT OF REAL ESTATE

By *Jana B. [Signature]*

**DEPARTMENT OF REAL ESTATE  
STATE OF CALIFORNIA**

*In the Matter of the Application of*  
  
**CARLOS TOVAR,**

Respondent

)  
) No. H- 31723 LA  
) L-2005040356  
)  
) **STIPULATION AND**  
) **WAIVER**  
)  
)  
)

It is hereby stipulated by and between CARLOS TOVAR (hereinafter "Respondent") and Respondent's attorney, D. Creighton Sebra, Esq., and the Complainant, acting by and through Darlene Averetta, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed on February 28, 2005, in this matter:

Respondent acknowledges that Respondent has received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate in connection with Respondent's application for a real estate salesperson license. Respondent understands that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of Respondent's honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the hearing and grant Respondent a restricted real estate salesperson license based upon this Stipulation and Waiver. Respondent also understands that by filing the Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to Respondent to make a satisfactory showing that Respondent meets all the requirements for issuance of a real estate salesperson 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 salesperson 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 salesperson license to Respondent under the authority of Section 10156.5 of the Business and  
7 Professions Code. Respondent understands that any such restricted license will be issued subject to and be  
8 limited by Section 10153.4 of the Business and Professions Code.

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

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

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

1 license until two years have elapsed from the date of issuance of the restricted license to  
2 Respondent.

3 3. With the application for license, or with the application for transfer to a new employing broker,  
4 Respondent shall submit a statement signed by the prospective employing broker on a form  
5 approved by the Department of Real Estate wherein the employing broker shall certify as  
6 follows:

7 a. That broker has read the Statement of Issues which is the basis for the issuance of the  
8 restricted license; and


9 b. That broker will carefully review all transaction documents prepared by the restricted  
10 licensee and otherwise exercise close supervision over the licensee's performance of acts  
11 for which a license is required.

12 4. Respondent's restricted real estate salesperson license is issued subject to the requirements of  
13 Section 10153.4 of the Business and Professions Code, to wit: Respondent is required, within  
14 eighteen (18) months of the issuance of the restricted license, to submit evidence satisfactory to  
15 the Commissioner of successful completion, at an accredited institution, of  
16 a course in real estate practices and one of the courses listed in Section 10153.2, other than real  
17 estate principles, advanced legal aspects of real estate, advanced real estate finance, or advanced  
18 real estate appraisal. If Respondent fails to timely present to the Department satisfactory  
19 evidence of successful completion of the two required courses, the restricted license shall be  
20 automatically suspended effective eighteen (18) months after the date of its issuance. Said  
21 suspension shall not be lifted unless, prior to the expiration of the restricted license, Respondent  
22 has submitted the required evidence of course completion and the Commissioner has given  
23 written notice to Respondent of the lifting of the suspension.

24 5. Pursuant to Section 10154, if Respondent has not satisfied the requirements for an unqualified  
25 license under Section 10153.4, Respondent shall not be entitled to renew the restricted license,  
26 and shall not be entitled to the issuance of another license which is subject to Section 10153.4  
27 until four years after the date of the issuance of the preceding restricted license.

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7/14/05  
Dated


  
DARLENE AVERETTA, Counsel, Department of Real Estate

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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.

07/06/05  
Dated

  
CARLOS TOVAR, Respondent

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

08/06/05  
Dated

  
D. CREIGHTON SEBRA, Attorney for Respondent

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1  
2 I have read the Statement of Issues filed herein and the foregoing Stipulation and Waiver signed by  
3 Respondent. I am satisfied that the hearing for the purpose of requiring further proof as to the honesty and  
4 truthfulness of Respondent need not be called and that it will not be inimical to the public interest to issue a  
5 restricted real estate salesperson license to Respondent.

6 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to  
7 Respondent, if Respondent has otherwise fulfilled all of the statutory requirements for licensure. The  
8 restricted license shall be limited, conditioned, and restricted as specified in the foregoing Stipulation and  
9 Waiver.

10 This Order is effective immediately.

11 IT IS SO ORDERED 7-22-05

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14 Jeff Davis  
15 Real Estate Commissioner  
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**FILED**  
FEB 28 2005  
DEPARTMENT OF REAL ESTATE

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

\* \* \*

In the Matter of the Application of )	
CARLOS TOVAR, )	No. H-31723 LA
Respondent. )	<u>STATEMENT OF ISSUES</u>

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against CARLOS TOVAR aka Jose Carlos Rodriguez and Jauregui Fernando ("Respondent"), is informed and alleges in her official capacity as follows:

I

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about February 20, 2004, with the knowledge and understanding that any license issued as a result of said application would be subject to the conditions of Section 10153.4 of the Business and Professions Code.

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CRIMINAL CONVICTION

II

On or about February 24, 1993, in the Superior Court of California, County of Los Angeles, in Case No. 93M00855, Respondent was convicted of violating one count of the California Vehicle Code Section 20 (Use/Etc False Information/Etc on Documents to DMV/CHP). This crime involves moral turpitude and is substantially related to the qualifications, functions and duties of a real estate licensee.

III

Respondent's conviction, as set forth in Paragraph II, above, constitutes cause to deny Respondent's real estate license application pursuant to Code Sections 480(a) and/or 10177(b).

FAILURE TO REVEAL CONVICTION

IV

In response to Question 25 of his license application, to wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW? CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE". Respondent answered "Yes", but failed to reveal the conviction described in Paragraph II, above.

V

Respondent's failure to reveal the conviction set forth in Paragraph II, above, in his license application, constitutes the attempt to procure a real estate license by fraud,

1 misrepresentation, or deceit, or by making a material  
2 misstatement of fact, or knowingly making a false statement of  
3 material fact required to be revealed in said application, which  
4 is grounds for denial of the issuance of a license under Business  
5 and Professions Code Sections 475(a)(1), 480(c), and/or 10177(a).

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

10 WHEREFORE, the Complainant prays that the above-  
11 entitled matter be set for hearing and, upon proof of the  
12 charges contained herein, that the Commissioner refuse to  
13 authorize the issuance of, and deny the issuance of, a real  
14 estate salesperson license to Respondent, CARLOS TOVAR, and for  
15 such other and further relief as may be proper in the premises.

16 Dated at Los Angeles, California

17 this 25th day of February, 2005.

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21 Deputy Real Estate Commissioner  
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23

24 cc: Carlos Tovar  
25 Grand Capital & Associates, Inc.  
26 Maria Suarez  
27 Sacto.  
CW