

1 Department of Real Estate
2 320 W. 4th Street, Suite 350
3 Los Angeles, CA 90013-1105

4 Telephone: (213) 576-6982



By K. Niederhoffer

7 **DEPARTMENT OF REAL ESTATE**

8 **STATE OF CALIFORNIA**

9
10 *In the Matter of the Application of*

11 GIBRAN JESUS MARTINEZ,

12
13 Respondent

)
) No. H- 32471 LA
)

)
) **STIPULATION AND**
) **WAIVER**
)

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15 It is hereby stipulated by and between GIBRAN JESUS MARTINEZ (hereinafter "Respondent") and
16 Respondent's attorney, Frank M. Buda, Esq., and the Complainant, acting by and through Elliott Mac
17 Lennan, Counsel for the Department of Real Estate, as follows for the purpose of settling and disposing of
18 the Statement of Issues filed on January 30, 2006 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 salesperson license. Respondent understands that the Real Estate Commissioner
22 may 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 salesperson license based upon this Stipulation and
25 Waiver. 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 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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_____ 5-15-06 _____
Dated Elliott Mac Lennan, 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.

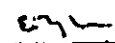
Respondent can signify acceptance and approval of the terms and conditions of this Stipulation and Waiver by faxing a copy of the signature page, as actually signed by respondent, to the Department at fax number (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending 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.

_____ GIBRAN JESUS MARTINEZ, Respondent
Dated

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

_____ Frank M. Buda, Attorney for Respondent
Dated

5-15-06
Dated


Elliott Mac Lemmon, 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.

5-4-06
Dated


ODRAN JESUS MARTINEZ, Respondent

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

5-4-06
Dated


Frank M. Buda, 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 5-24-06


Jeff Davi
Real Estate Commissioner

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
JAN 30 2008
DEPARTMENT OF REAL ESTATE

By K. M. Lennan

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of
GIBRAN JESUS MARTINEZ,
Respondent.

No. H-32471 LA

STATEMENT OF ISSUES

The Complainant, Janice Waddell, a Deputy Real Estate Commissioner of the State of California, for Statement of Issues against GIBRAN JESUS MARTINEZ (Respondent) is informed and alleges in her official capacity as follows:

1.

Respondent made application to the Department of Real Estate of the State of California for a real estate salesperson license on or about Mar 7, 2001, subject to Section 10153.4(c) under the Real Estate Law (Part 1 of Division 4 of the California Business and Professions Code) (Code) 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

1 California Business and Professions Code) (Code).

2 2.

3 On December 27, 2001, in the Superior Court of
4 California, County of Orange, Respondent was convicted by a
5 guilty plea to one count of Penal Code Section 243(e)(1) (spousal
6 battery), a misdemeanor crime, which by its facts and
7 circumstances involves moral turpitude and is substantially
8 related under Section 2910(a)(8), Chapter 6, Title 10 of the
9 California Code of Regulations, to the qualifications, functions
10 or duties of a real estate licensee and is cause to deny
11 Respondent's application for a real estate license pursuant to
12 Code Sections 480(a) and/or 10177(b).

13 These proceedings are brought under the provisions of
14 Section 10100, Division 4 of the Business and Professions Code of
15 the State of California and Sections 11500 through 11528 of the
16 Government Code of the State of California.
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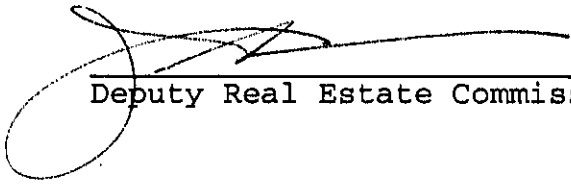
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1 WHEREFORE, Complainant prays that the above-entitled
2 matter be set for hearing and, that upon proof of the charges
3 contained herein, that the Commissioner refuse to authorize the
4 issuance of, and deny the issuance of, a real estate salesperson
5 license to Respondent GIBRAN JESUS MARTINEZ and for such other
6 and further relief as may be proper under other applicable
7 provisions of law.

8 Dated at Los Angeles, California

9 this

19 January 2006


Deputy Real Estate Commissioner

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25 cc: Gibran Jesus Martinez
26 Janice Waddell
27 Sacto
JO