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Telephone: (213) 576-6982

FEB 20 2007

DEPARTMENT OF REAL ESTATE
BY: Laura B. Dow

DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Application of

DANIEL CARLOS YBANEZ

No. H- 33292 LA

STIPULATION AND WAIVER

Respondent

I, DANIEL CARLOS YBANEZ, respondent herein, do hereby affirm that I have applied to the Department of Real Estate for a real estate salesperson license and that to the best of my knowledge I have satisfied all of the statutory requirements for the issuance of the license, including the payment of the fee therefor.

I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent filed by the Department of Real Estate on October 4, 2006, in connection with my application for a real estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate

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

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

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

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

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

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

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

1 of the faxed copy by the Department shall be as binding on respondent as if the Department had received
2 the original signed Stipulation and Waiver.

3 12-30-06

4 Dated

Daniel Carlos Ybanez
DANIEL CARLOS YBANEZ, Respondent

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

9 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
10 respondent DANIEL CARLOS YBANEZ if respondent has otherwise fulfilled all of the statutory
11 requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in
12 the foregoing Stipulation and Waiver.

13 This Order is effective immediately.

14 IT IS SO ORDERED 12-30-07

16 Jeff Davi
17 Real Estate Commissioner

18 Jeff Davi
19

1 JAMES DEMUS, Counsel (SBN 225005)
2 Department of Real Estate
3 320 West 4th Street, Suite 350
4 Los Angeles, California 90013-1105

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FILED

OCT - 4 2006

DEPARTMENT OF REAL ESTATE

BY: Jane B. Demus

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Application of) NO. H-33292 LA
12)
13 DANIEL CARLOS YBANEZ,) STATEMENT OF ISSUES
14)
15 Respondent.)

16 The Complainant, Maria Suarez, a Deputy Real Estate
17 Commissioner of the State of California, for Statement of Issues
18 against DANIEL CARLOS YBANEZ, ("Respondent"), is informed and
19 alleges in her official capacity as follows:

20 1.

21 On or about September 23, 2005, Respondent made
22 application to the Department of Real Estate of the State of
23 California for a real estate salesperson license with the
24 knowledge and understanding that any license issued as a result
25 of said application would be subject to the conditions of
26 Section 10153.4 of the California Business and Professions Code.
27

FIRST CAUSE FOR DENIAL
(CRIMINAL CONVICTIONS)

2.

On or about February 29, 2000, Respondent was convicted in the Superior Court of California, County of Orange, South Justice Center, Case No. SH99SFO796, of violating California Penal Code 602.5 (entering a non-commercial building), a misdemeanor. Said crime or underlying conduct involves moral turpitude and bears a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

3.

On or about October 7, 2002, Respondent was convicted in the Superior Court of California, County of Orange, Case No. 01HM02395MA, of violating California Penal Code 415(1) (fight or challenge to fight in public place), a misdemeanor. Said crime involves moral turpitude and bears a substantial relationship under Section 2910, Title 10, Chapter 6, California Code of Regulations, to the qualifications, functions or duties of a real estate licensee.

4.

On or about September 9, 2003, Respondent was convicted in the Superior Court of California, County of Riverside, Case No. COM033390, of violating California Penal Code 1320(a) (failure to appear), a misdemeanor. Said crime

1 involves moral turpitude and bears a substantial relationship
2 under Section 2910, Title 10, Chapter 6, California Code of
3 Regulations, to the qualifications, functions or duties of a
4 real estate licensee.

5 SECOND CAUSE FOR DENIAL
6 (FAILURE TO REVEAL CONVICTION)

7 5.

8 In response to Question 25 of the license application,
9 to wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW?
10 CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE
11 DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH
12 DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE", Respondent
13 failed to reveal the conviction described in Paragraph 4 above.

14 6.

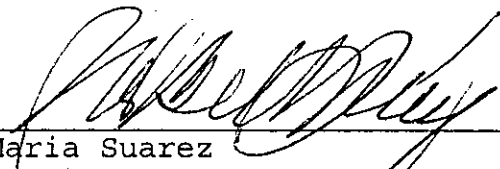
15 Respondent's failure to disclose the conviction, as
16 set forth in Paragraph 4 above, in his license application,
17 constitutes an attempt to procure a real estate license by
18 fraud, misrepresentation, or deceit, or by making a false
19 statement of material fact required to be revealed in said
20 application, which is grounds for denial of the issuance of a
21 license under Business and Professions Code Sections 475(a)(1),
22 480(c) and/or 10177(a).

23 These proceedings are brought under the provisions of
24 Section 10100, Division 4 of the Business and Professions Code
25 of the State of California and Sections 11500 through 11528 of
26 the California Government Code.
27

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

8 Dated at Los Angeles, California

9 this 3rd day of October, 2006.

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13 Maria Suarez
14 Deputy Real Estate Commissioner
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25 cc: Daniel Carlos Ybanez
26 Steven Mitchell Mortgage and Realty, Inc.
27 Maria Suarez
Sacto.