

FILED

MAY - 3 2007

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

5 Telephone: (213) 576-6911 (direct)
6 -or- (213) 576-6982 (office)
7

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-33446 LA

12 KEVIN MATTHEW PORIZEK,)

STIPULATION

13 Respondent.)

AND
AGREEMENT

14
15 It is hereby stipulated by and between KEVIN MATTHEW
16 PORIZEK (sometimes referred to as Respondent), represented by
17 Reamer J. Reamer, Esq., and the Complainant, acting by and
18 through Elliott Mac Lennan, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing the
20 Accusation filed in this matter on November 21, 2006.

21 1. All issues which were to be contested and all
22 evidence which was to be presented by Complainant and Respondents
23 at a formal hearing on the Accusation, which hearing was to be
24 held in accordance with the provisions of the Administrative
25 Procedure Act ("APA"), shall instead and in place
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1 thereof be submitted solely on the basis of the provisions of
2 this Stipulation and Agreement ("Stipulation").

3 2. Respondent has received, read and understands the
4 Statement to Respondent, the Discovery Provisions of the APA and
5 the Accusation filed by the Department of Real Estate in this
6 proceeding.

7 3. Respondent timely filed a Notice of Defense
8 pursuant to Section 11505 of the Government Code for the purpose
9 of requesting a hearing on the allegations in the Accusation.
10 Respondent hereby freely and voluntarily withdraws said Notice of
11 Defense. Respondent acknowledges that he understands that by
12 withdrawing said Notice of Defense he thereby waives his right to
13 require the Commissioner to prove the allegations in the
14 Accusation at a contested hearing held in accordance with the
15 provisions of the APA and that he will waive other rights
16 afforded to him in connection with the hearing such as the right
17 to present evidence in defense of the allegations in the
18 Accusation and the right to cross-examine witnesses.

19 4. This Stipulation is based on the factual
20 allegations contained in the Accusation filed in this proceeding.
21 In the interest of expedience and economy, Respondent chooses not
22 to contest these factual allegations, but to remain silent and
23 understands that, as a result thereof, these factual statements,
24 will serve as a prima facie basis for the disciplinary action
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1 stipulated to herein. The Real Estate Commissioner shall not be
2 required to provide further evidence to prove such allegations.

3 5. This Stipulation and Respondent's decision not to
4 contest the Accusation is made for the purpose of reaching an
5 agreed disposition of this proceeding and is expressly limited to
6 this proceeding and any other proceeding or case in which the
7 Department of Real Estate ("Department"), the state or federal
8 government, or any agency of this state, another state or federal
9 government is involved, and otherwise shall not be admissible in
10 any other criminal or civil proceedings.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt the Stipulation and Agreement as
13 his decision in this matter thereby imposing the penalty and
14 sanctions on Respondent's real estate licenses and license rights
15 as set forth in the "Order" hereinbelow. In the event that the
16 Commissioner in his discretion does not adopt the Stipulation and
17 the Agreement, the Agreement shall be void and of no effect, and
18 Respondent shall retain the right to a hearing and proceeding on
19 the Accusation under the provisions of the APA and shall not be
20 bound by any admission or waiver made herein.

22 7. The Order or any subsequent Order of the Real
23 Estate Commissioner made pursuant to this Stipulation shall not
24 constitute an estoppel, merger or bar to any further
25 administrative or civil proceedings by the Department of Real
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1 Estate with respect to any matters which were not specifically
2 alleged to be causes for accusation in this proceeding.

3 DETERMINATION OF ISSUES

4 By reason of the foregoing stipulations and waivers and
5 solely for the purpose of settlement of the pending Accusation
6 without a hearing, it is stipulated and agreed that the following
7 determination of issues shall be made:

8 I

9 The conduct, acts and/or admissions of Respondent, as
10 set forth in the Accusation, constitute cause for discipline
11 including suspension or revocation of Respondent KEVIN MATTHEW
12 PORIZEK's real estate salesperson license and license rights
13 under the provisions of Sections 490 and 10177(b) of the Business
14 and Professions Code.

15
16 ORDER

17 WHEREFORE THE FOLLOWING ORDER IS MADE PURSUANT TO THE
18 WRITTEN STIPULATION OF THE PARTIES:

19 I

20 The real estate salesperson license and licensing
21 rights of Respondent KEVIN MATTHEW PORIZEK under the Real Estate
22 Law are revoked; provided, however, a restricted real estate
23 salesperson license shall be issued to Respondent pursuant to
24 Section 10156.5 of the Business and Professions Code, if
25 Respondent:
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1 A. Makes application therefor and pays to the
2 Department of Real Estate the appropriate fee for the restricted
3 license within ninety (90) days from the effective date of this
4 Decision; and

5 B. The restricted license issued to Respondent shall
6 be subject to all of the provisions of Section 10156.7 of the
7 Code and the following limitations, conditions and restrictions
8 imposed under authority of Section 10156.6 of that Code:

9 1. The restricted license issued to Respondent may be
10 suspended prior to hearing by Order of the Real Estate
11 Commissioner in the event of Respondent's conviction or plea of
12 nolo contendere to a crime which is substantially related to
13 Respondent's fitness or capacity as a real estate licensee.

14 2. The restricted license issued to Respondent may
15 be suspended prior to hearing by Order of the Real Estate
16 Commissioner on evidence satisfactory to the Commissioner that
17 Respondent has violated provisions of the California Real Estate
18 Law, the Subdivided Lands Law, Regulations of the Real Estate
19 Commissioner or conditions attaching to the restricted license.

20 3. Respondent shall not be eligible to apply for the
21 issuance of an unrestricted real estate license nor for the
22 removal of any of the conditions, limitations or restrictions of
23 a restricted license until two (2) years have elapsed from the
24 effective date of this Decision.

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1 4. Respondent shall, within nine (9) months from the
2 effective date of this Decision, present evidence satisfactory to
3 the Real Estate Commissioner that Respondent has, since the most
4 recent issuance of an original or renewal real estate license,
5 taken and successfully completed the continuing education
6 requirements of Article 2.5 of Chapter 3 of the Real Estate Law
7 for renewal of a real estate license. If Respondent fails to
8 satisfy this condition, the Commissioner may order the suspension
9 of the restricted license until Respondent presents such
10 evidence. The Commissioner shall afford Respondent the
11 opportunity for a hearing pursuant to the Administrative
12 Procedure Act to present such evidence.

13 5. Respondent shall submit with any application for
14 license under an employing broker, or any application for
15 transfer to a new employing broker, a statement signed by the
16 prospective employing real estate broker on a form approved by
17 the Department of Real Estate which shall certify:

18 (a) That the employing broker has read
19 the Decision of the Commissioner which granted the right to a
20 restricted license; and
21

22 (b) That the employing broker will exercise
23 close supervision over the performance by the restricted licensee
24 relating to activities for which a real estate license is
25 required.

26 ///.

1 DATED: 3-22-07

2 ELLIOTT MAC LENNAN, Counsel for
3 the Department of Real Estate

4 * * *

5 I have read the Stipulation and Waiver and discussed it
6 with my counsel. Its terms are understood by me and are
7 agreeable and acceptable to me. I understand that I am waiving
8 rights given to me by the California Administrative Procedure Act
9 (including but not limited to Sections 11506, 11508, 11509 and
10 11513 of the Government Code), and I willingly, intelligently and
11 voluntarily waive those rights, including the right of requiring
12 the Commissioner to prove the allegations in the Accusation at a
13 hearing at which I would have the right to cross-examine
14 witnesses against me and to present evidence in defense and
15 mitigation of the charges.
16


17 Respondent (1) shall mail the original signed signature
18 page of the stipulation herein to Elliott Mac Lennan: Attention:
19 Legal Section, Department of Real Estate, 320 W. Fourth St.,
20 Suite 350, Los Angeles, California 90013-1105. Additionally,
21 Respondent shall also (2) facsimile a copy of signed signature
22 page, to the Department at the following telephone/fax number:
23 (213) 576-6917, Attention: Elliott Mac Lennan. A facsimile
24 constitutes acceptance and approval of the terms and conditions
25 of this stipulation. Respondent agrees, acknowledges and
26 understands that by electronically sending to the Department a
27

1 facsimile copy of Respondent's actual signature as it appears on
2 the stipulation, that receipt of the facsimile copy by the
3 Department shall be as binding on Respondent as if the Department
4 had received the original signed stipulation.

5
6 DATED: 03/19/07


KEVIN MATTHEW PORIZEK, Respondent

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8
9
10 DATED: 3-19-07


ROBERT J. REAMER, ESQ.
Attorney for Respondent
Approved as to form

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14 * * *

15 The foregoing Stipulation and Agreement is hereby
16 adopted as my Decision as to Respondent KEVIN MATTHEW PORIZEK and
17 shall become effective at 12 o'clock noon
18 on _____, 2007

19 IT IS SO ORDERED _____, 2007

20
21 JEFF DAVI
Real Estate Commissioner
22
23
24
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26
27


1 facsimile copy of Respondent's actual signature as it appears on
2 the stipulation, that receipt of the facsimile copy by the
3 Department shall be as binding on Respondent as if the Department
4 had received the original signed stipulation.
5

6 DATED: _____
7

KEVIN MATTHEW PORIZEK, Respondent
8
9

10 DATED: _____
11

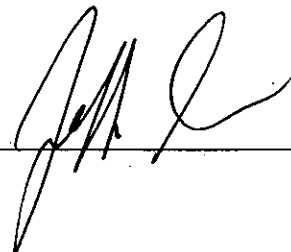
ROBERT J. REAMER, ESQ.
Attorney for Respondent
Approved as to form
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* * *

14 The foregoing Stipulation and Agreement is hereby
15 adopted as my Decision as to Respondent KEVIN MATTHEW PORIZEK and
16 shall become effective at 12 o'clock noon
17 on May 23, 2007
18

19 IT IS SO ORDERED 4/24, 2007
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JEFF DAVI
Real Estate Commissioner
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for.
1 ELLIOTT MAC LENNAN, SBN 66674
2 Department of Real Estate
3 320 West 4th Street, Ste. 350
4 Los Angeles, California 90013-1105

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

FILED

NOV 21 2006

DEPARTMENT OF REAL ESTATE

BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

No. H-33446 LA

12 KEVIN MATTHEW PORIZEK,)

ACCUSATION

13 Respondent.)

14
15 The Complainant, Maria Suarez, a Deputy Real Estate
16 Commissioner of the State of California, for cause of accusation
17 against KEVIN MATTHEW PORIZEK, is informed and alleges in her
18 official capacity as follows:

19 1.

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

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1 2.

2 Respondent was originally licensed by the Department of
3 Real Estate of the State California as a real estate salesperson
4 on April 3, 2000.

5 3.

6 On March 23, 2005, in the Superior Court of California,
7 County of Los Angeles, respondent was convicted in Case Number
8 4SB09486, upon a plea of nolo contendere to one count of Penal
9 Code Section 647(k) (disorderly conduct: look through hole,
10 opening or other instrumentality including a video recorder into
11 bedroom of minor child), a misdemeanor involving moral turpitude
12 that is substantially related under Section 2910(a)(5), Chapter
13 6, Title 10 of the California Code of Regulations "Regulations"),
14 to the qualifications, functions or duties of a real estate
15 licensee.
16

17 4.

18 On August 10, 2004, in the Superior Court of
19 California, County of Los Angeles, respondent was convicted in
20 Case Number BA252383, upon a plea of nolo contendere to one count
21 of Insurance Code Section 1871.4(a)(1)) (worker's compensation
22 insurance fraud), a misdemeanor involving moral turpitude that is
23 substantially related under Section 2910(a)(2), Chapter 6, Title
24 10 of the California Code of Regulations "Regulations"), to the
25 qualifications, functions or duties of a real estate licensee.
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The facts as alleged in Paragraphs 3 and 4, above, constitute cause for the suspension or revocation of the license and license rights of respondent under Code Sections 490 and/or 10177(b).

WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against the license and license rights of respondent KEVIN MATTHEW PORIZEK under the Real Estate Law (Part 1 of Division 4 of the Business and Professions Code) and for such other and further relief as may be proper under other applicable provision of law.

Dated at Los Angeles, California

This

27th day of September 2005


Deputy Real Estate Commissioner

cc: Kevin Matthew Porizek
Union Realty Co./Raylee Vernon Phillips
Maria Suarez
Sacto
AN