

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

4 Telephone: (213) 576-6982

FILED

FEB 20 2007

DEPARTMENT OF REAL ESTATE
BY: Lana B. [Signature]

7 DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9
10 *In the Matter of the Application of*

11 EVAN C. BARRY,

12
13 Respondent
14

)
) No. H- 33543 LA
)
)

) STIPULATION AND
) WAIVER
)
)

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

18 I acknowledge that I have received and read the Statement of Issues and the Statement to Respondent
19 filed by the Department of Real Estate on December 19, 2006, in connection with my application for a real
20 estate salesperson license. I understand that the Real Estate Commissioner may hold a hearing on this
21 Statement of Issues for the purpose of requiring further proof of my honesty and truthfulness and to prove
22 other allegations therein, or that he may in his discretion waive the hearing and grant me a restricted real
23 estate salesperson license based upon this Stipulation and Waiver. I also understand that by filing the
24 Statement of Issues in this matter the Real Estate Commissioner is shifting the burden to me to make a
25 satisfactory showing that I meet all the requirements for issuance of a real estate salesperson license. I
26 further understand that by entering into this stipulation and waiver I will be stipulating that the Real Estate
27

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.
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- 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 1.16.7

4 Dated

5 
EVAN C. BARRY, Respondent

6 * * *

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

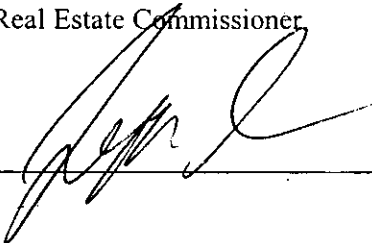
11 Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to
12 respondent EVAN C. BARRY if respondent has otherwise fulfilled all of the statutory requirements for
13 licensure. The restricted license shall be limited, conditioned, and restricted as specified in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

15 This Order is effective immediately.

16 IT IS SO ORDERED

17 2-14-07

18 Jeff Davi
19 Real Estate Commissioner

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1 MARTHA J. ROSETT, Counsel (SBN 142072)
2 Department of Real Estate
3 320 West Fourth St. #350
4 Los Angeles, CA 90013

FILED

DEC 19 2006

DEPARTMENT OF REAL ESTATE
BY: James B. Olm

4 (213) 576-6982
5 (213) 620-6430

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * * *

11 In the Matter of the Application of) No. H-33543 LA
12)
13 EVAN C. BARRY,) STATEMENT OF ISSUES
14)
15 Respondent.)

16 The Complainant, Janice Waddell, a Deputy Real Estate
17 Commissioner of the State of California, for Statement of Issues
18 against EVAN C. BARRY (hereinafter "Respondent"), alleges in her
19 official capacity as follows:

20 1.

21 On or about December 8, 2005, pursuant to the
22 provisions of Section 10153.3 of the Business and Professions
23 Code (hereinafter "Code"), Respondent made application to the
24 Department of Real Estate of the State of California for a real
25 estate salesperson license with the knowledge and understanding
26 that any license issued as a result of said application would be
27 subject to the conditions of Section 10153.4 of the Business and

1 Professions Code ("Code").

2 2.

3 In response to Question 2, Part D, of his application
4 for a real estate license, to wit, "Have you ever been convicted
5 of any violation of law? Convictions expunged under Penal Code
6 Section 1203.4 must be disclosed", Respondent marked the box,
7 "No".

8 3.

9 On or about December 11, 1984, in the Municipal Court
10 of San Diego County, State of California, in Case No. F86839,
11 Respondent was convicted of violating Penal Code Section 484F(2)
12 (credit card fraud), a crime of moral turpitude which is
13 substantially related to the qualifications, functions and duties
14 of a real estate licensee. Respondent was sentenced to three
15 years probation, to include serving 90 days in jail. Respondent
16 did not disclose this conviction in his application for a real
17 estate license.

18 4.

19 Respondent's conviction, as set forth in Paragraph 3,
20 above, constitutes grounds for denial of his application for a
21 real estate license pursuant to Code Sections 480(a) and/or
22 10177(b).

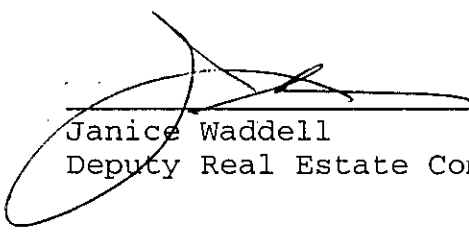
23 5.

24 Respondent's failure to disclose the conviction set
25 forth in Paragraph 3 above, constitutes grounds to deny his
26 application for a real estate license pursuant to Code Sections
27 10177(a) and 480(c).

1 These proceedings are brought under the provisions of
2 Section 10100, Division 4 of the Business and Professions Code of
3 the State of California and Sections 11500 through 11528 of the
4 Government Code.

5 WHEREFORE, the Complainant prays that the above-
6 entitled matter be set for hearing and, upon proof of the charges
7 contained herein, that the Commissioner refuse to authorize the
8 issuance of, and deny the issuance of, a real estate salesperson
9 license to Respondent EVAN C. BARRY, and for such other and
10 further relief as may be proper under the law.

11 Dated at Los Angeles, California
12 this 15 day of November, 2006.

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16 Janice Waddell
17 Deputy Real Estate Commissioner
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23 cc: Evan C. Barry
24 John J. Kern/Marcus and Millichap
25 Sacto.
26 Janice Waddell
27