

1 Department of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013

4 (213) 576-6982
5 (213) 576-6914

FILED
JULY 24, 2008
DEPARTMENT OF REAL ESTATE

By C. Roy

6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Application of) NO. H-34696 LA
12) L-2008030232
13 ALFREDO PEREZ ROYBAL,)
14)
15 Respondent.)

16 In the Matter of the Accusation of) NO. H-34697 LA
17) L-2008030233
18 ALFREDO PEREZ ROYBAL,)
19)
20 Respondent.)

21 STIPULATION AND AGREEMENT

22 It is hereby stipulated by and between ALFREDO PEREZ
23 ROYBAL (hereinafter "Respondent") and his attorney, Frank M.
24 Buda, and the Complainant, acting by and through Lissete Garcia,
25 Counsel for the Department of Real Estate, as follows for the
26 purpose of settling and disposing of the Statement of Issues and
27 the Accusation filed respectively on February 5, 2008, and

February 6, 2008, in this matter:

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

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

3. On February 11, 2008, and on February 14, 2008, Respondent filed separate Notices of Defense pursuant to Section 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the Statement of Issues and the Accusation. Respondent hereby freely and voluntarily withdraws said Notices of Defense. Respondent acknowledges that he understands that by withdrawing said Notices of Defense he will thereby waive his right to require the Commissioner to prove the allegations in the Statement of Issues and the Accusation at a contested hearing held in accordance with the provisions of the APA and that he will waive other rights afforded to him in connection with the hearing such as the right to present evidence in defense of the allegations in the Statement of Issues and the Accusation and the right to cross-examine witnesses.

1 4. This Stipulation and Agreement is based on the
2 factual allegations contained in the Statement of Issues and
3 Accusation filed in this proceeding. In the interest of
4 expedience and economy, Respondent chooses not to contest these
5 factual allegations, but to remain silent and understands that,
6 as a result thereof, these factual statements, without being
7 admitted or denied, will serve as prima facie basis for the
8 disciplinary action stipulated to herein. In addition,
9 Respondent agrees and stipulates that his conduct is cause for
10 discipline and/or denial pursuant to Business and Professions
11 Code Sections 475, 480 and 10177(f).

12 5. This Stipulation and Agreement and Respondent's
13 decision not to contest the Statement of Issues and Accusation
14 are hereby expressly limited to this proceeding and made for the
15 sole purpose of reaching an agreed disposition of this
16 proceeding. Respondent's decision not to contest the factual
17 allegations is made solely for the purpose of effectuating this
18 Stipulation and Agreement and is intended by Respondent to be
19 non-binding upon him in any actions against Respondent by third
20 parties. The Real Estate Commissioner shall not be required to
21 provide further evidence to prove such allegations.

22 6. It is understood by the parties that the Real
23 Estate Commissioner may adopt the Stipulation and Agreement as
24 his Decision in this matter, thereby imposing the penalty and
25 sanctions on Respondent's real estate license and license rights
26 as set forth in the below "Order". In the event that the
27 Commissioner in his discretion does not adopt the Stipulation

1 and Agreement, it shall be void and of no effect, and Respondent
2 shall retain the right to a hearing and proceeding on the
3 Statement of Issues and the Accusation under all the provisions
4 of the APA and shall not be bound by any admission or waiver
5 made herein.

6 7. The Order or any subsequent Order of the Real
7 Estate Commissioner made pursuant to this Stipulation and
8 Agreement shall not constitute an estoppel, merger or bar to any
9 further administrative or civil proceedings by the Department of
10 Real Estate with respect to any matters which were not
11 specifically alleged to be causes for accusation in this
12 proceeding.

13 8. In lieu of proceeding in the matter of the
14 Accusation, in accordance with the provisions of the
15 Administrative Procedure Act (Sections 11400 et seq., of the
16 Business and Professions Code), ALFREDO PEREZ ROYBAL wishes to
17 voluntarily surrender his real estate salesperson license issued
18 by the Department of Real Estate, pursuant to Business and
19 Professions Code Section 10100.2.

20 9. Respondent ALFREDO PEREZ ROYBAL understands that
21 by so voluntarily surrendering his real estate salesperson
22 license, he may be relicensed as a salesperson only by
23 petitioning for reinstatement pursuant to Section 11522 of the
24 Government Code. Respondent ALFREDO PEREZ ROYBAL also
25 understands that by so voluntarily surrendering his real estate
26 salesperson license, Respondent agrees to the following:

27 A. The filing of this Stipulation and Agreement shall

1 be deemed as Respondent ALFREDO PEREZ ROYBAL's declaration and
2 petition for voluntary surrender of his real estate salesperson
3 license.

4 B. It shall also be deemed to be an understanding and
5 agreement by Respondent ALFREDO PEREZ ROYBAL that he waives all
6 rights he has to require the Commissioner to prove the
7 allegations contained in the Accusation filed in this matter at
8 a hearing held in accordance with the provisions of the
9 Administrative Procedure Act (Government Code Sections 11400 et
10 seq.), and that Respondent ALFREDO PEREZ ROYBAL also waives
11 other rights afforded to him in connection with the hearing such
12 as the right to discovery, the right to present evidence in
13 defense of the allegations in the Accusation and the right to
14 cross-examine witnesses.

15 10. Respondent ALFREDO PEREZ ROYBAL further agrees
16 that upon acceptance by the Commissioner, as evidenced by an
17 appropriate order, all affidavits and all relevant evidence
18 obtained by the Department in this matter prior to the
19 Commissioner's acceptance, and all allegations contained in the
20 Accusation filed in the Department Case No. H-34697 LA, may be
21 considered by the Department to be true and correct for the
22 purpose of deciding whether to grant relicensure or
23 reinstatement of any real estate salesperson or broker license
24 pursuant to Government Code Section 11522.

25 11. Respondent ALFREDO PEREZ ROYBAL freely and
26 voluntarily surrenders his real estate salesperson license and
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1 license rights under the Real Estate Law conditioned upon being
2 issued a restricted real estate broker license.

3 DETERMINATION OF ISSUES

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

9 The conduct of Respondent, as set forth in the
10 Statement of Issues and the Accusation constitutes grounds for
11 the denial of Respondent's application for a real estate broker
12 license and suspension or revocation of Respondent's real estate
13 salesperson license under the provisions of Sections 475, 480
14 and 10177(f) of the Business and Professions Code.

15 ORDER

16 WHEREFORE, THE FOLLOWING ORDER is hereby made:

17 I

18 IT IS HEREBY ORDERED that:

19 Respondent ALFREDO PEREZ ROYBAL's petition for
20 voluntary surrender of his real estate salesperson license is
21 accepted as of the date of the issuance of a restricted broker
22 license as set forth below, based upon the understanding and
23 agreement expressed in Respondent's Declaration incorporated
24 herein as part of this Stipulation and Agreement: Respondent's
25 real estate salesperson license certificate(s), pocket card(s)
26 and any branch office license certificate(s) shall be sent to the
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1 below listed address so that they reach the Department on or
2 before the effective date of this Order:

3 DEPARTMENT OF REAL ESTATE
4 Attn: Licensing Flag Section
5 P. O. Box 187000
6 Sacramento, CA 95818-7000

7 II

8 Respondent ALFREDO PEREZ ROYBAL's application for a
9 real estate broker license is denied; provided, however, a
10 restricted real estate broker license shall be issued to
11 Respondent ALFREDO PEREZ ROYBAL pursuant to Section 10156.5 of
12 the Business and Professions Code. The restricted license
13 issued to the Respondent shall be subject to all of the
14 provisions of Section 10156.7 of the Business and Professions
15 Code and to the following limitations, conditions and
16 restrictions imposed under authority of Section 10156.6 of said
17 Code.

18 1. The license shall not confer any property right in
19 the privileges to be exercised, and the Real Estate Commissioner
20 may by appropriate order suspend the right to exercise any
21 privileges granted under this restricted license in the event
22 of:

23 (a) The conviction of Respondent (including a plea of
24 nolo contendere) of a crime which is substantially related to
25 Respondent's fitness or capacity as a real estate licensee; or

26 (b) The receipt of evidence that Respondent has
27 violated provisions of the California Real Estate Law, the

1 Subdivided Lands Law, Regulations of the Real Estate

2 Commissioner or conditions attaching to this restricted license.

3 2. Respondent shall not be eligible to apply for the
4 issuance of an unrestricted real estate license nor the removal
5 of any of the conditions, limitations or restrictions attaching
6 to the restricted license until one (1) year has elapsed from
7 the date of issuance of the restricted license to Respondent.

8 DATED: 6/11/08 Lisette Garcia
9 LISSETE GARCIA Counsel for Complainant


10 * * *

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

22 Respondent can signify acceptance and approval of the
23 terms and conditions of this Stipulation and Agreement by faxing
24 a copy of the signature page, as actually signed by Respondent,
25 to the Department at fax number (213) 576-6917. Respondent
26 agrees, acknowledges and understands that by electronically
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1 sending to the Department a fax copy of his actual signature as
2 it appears on the Stipulation and Agreement, that receipt of the
3 faxed copy by the Department shall be as binding on Respondent
4 as if the Department had received the original signed
5 Stipulation and Agreement.

6 DATED: 06-04-08


ALFREDO PEREZ ROYBAL
Respondent

9
10 I have reviewed the Stipulation and Agreement as to
11 form and content and have advised my client accordingly.

12
13 DATED: 6-4-08


FRANK M. BUDA, Attorney for Respondent

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15
16 The foregoing Stipulation and Agreement is hereby
17 adopted as my Decision in this matter and shall become effective
18 at 12 o'clock noon on _____, 2008.

19 IT IS SO ORDERED _____

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22 JEFF DAVE
23 Real Estate Commissioner
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1 sending to the Department a fax copy of his actual signature as
2 it appears on the Stipulation and Agreement, that receipt of the
3 faxed copy by the Department shall be as binding on Respondent
4 as if the Department had received the original signed
5 Stipulation and Agreement.

6
7 DATED: _____
8 ALFREDO PEREZ ROYBAL
9 Respondent

10 I have reviewed the Stipulation and Agreement as to
11 form and content and have advised my client accordingly.

12
13 DATED: _____
14 FRANK M. BUDA, Attorney for Respondent

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18 The foregoing Stipulation and Agreement is hereby
19 adopted as my Decision in this matter and shall become effective
20 at 12 o'clock noon on August 13, 2008.

21 IT IS SO ORDERED _____

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23 JEFF DAVIS
24 Real Estate Commissioner
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II

1 Pursuant to the provisions of Code Section 10153.3,
2 Respondent was originally licensed as a salesperson (License No.
3 00927253) with the Department on or about May 9, 1986. Said
4 license shall expire on May 3, 2008.
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6 PRIOR DISCIPLINE

7 III

8 On or about January 11, 2000, the Contractors State
9 License Board of California ("CSLB") issued Contractor's License
10 No. 773499 to The Andrade Group, Inc., with Respondent listed as
11 the Responsible Managing Officer. On or about September 20,
12 1990, the CSLB issued Contractor's License No. 602995 to Roybal
13 & Son with Respondent listed as sole owner.

14 IV

15 On or about February 18, 2004, in Case No. S2003-229,
16 the CSLB brought an Accusation alleging cause for discipline of
17 both Contractor's License No. 773499 and Contractor's License
18 No. 602995 based on violations of the Business and Professions
19 Code Section 7000, et seq. Respondent was given fair notice of
20 the charges, an opportunity for a hearing and other due process
21 protections under the Administrative Procedure Act.
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23 V

24 On or about October 6, 2006, the CSLB's Order to Adopt
25 Stipulation and Waiver became effective. Said order revoked
26 Contractor's License No. 773499 and revoked Contractor's License
27 No. 602995; however, the revocation was stayed and Roybal & Son

1 was placed on probation for two years on certain terms and
2 conditions.

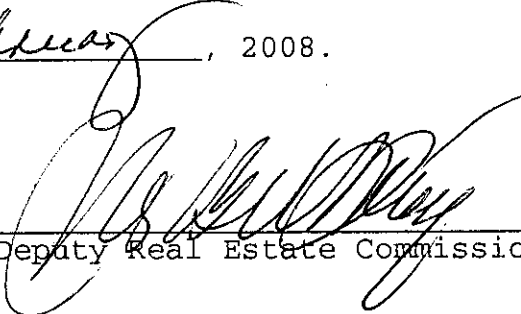
3 VI

4 The prior discipline against Respondent's Contractor's
5 license, as alleged in Paragraphs III, IV, and V above,
6 constitutes cause to deny the application for a real estate
7 broker license pursuant to the provisions of Sections 475, 480
8 and 10177(f) of the Code.

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

15 Dated at Los Angeles, California

16 this 15th day of February, 2008.

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20 Deputy Real Estate Commissioner
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24 cc: Alfredo Perez Roybal
25 Underline, Inc./William Leonard Kuhn
26 Sacto.
27 Maria Suarez