

FILED

APR - 7 2010

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

4 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE
BY: [Signature]

7 DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA

9
10 *In the Matter of the Application of*

11 BRIAN GARAY,

12
13 Respondent)

) No. H- 36376 LA

)
)
) STIPULATION AND
) WAIVER
)
)

14
15 I, BRIAN GARAY, respondent herein, do hereby affirm that I have applied to the Department of Real
16 Estate for a real estate salesperson license and that to the best of my knowledge I have satisfied all of the
17 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 9, 2009, 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.

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

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

- 13 1. The license shall not confer any property right in the privileges to be exercised including the
14 right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right
15 to exercise any privileges granted under this restricted license in the event of:
 - 16 a. The conviction of respondent (including a plea of nolo contendere) to a crime which bears a
17 substantial relationship to respondent's fitness or capacity as a real estate licensee; or
 - 18 b. The receipt of evidence that respondent has violated provisions of the California Real
19 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner or
20 conditions attaching to this restricted license.
- 21 2. I shall not be eligible to apply for the issuance of an unrestricted real estate license nor the
22 removal of any of the conditions, limitations, or restrictions attaching to the restricted license
23 until two years have elapsed from the date of issuance of the restricted license to respondent.
- 24 3. With the application for license, or with the application for transfer to a new employing broker, I
25 shall submit a statement signed by the prospective employing broker on a form approved by the
26 Department of Real Estate wherein the employing broker shall certify as follows:
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- a. That broker has read the Statement of Issues which is the basis for the issuance of the restricted license; and
- b. That broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

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.

_____ Dated

_____ BRIAN GARAY, Respondent

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- a. That broker has read the Statement of Issues which is the basis for the issuance of the restricted license; and
- b. That broker will carefully review all transaction documents prepared by the restricted licensee and otherwise exercise close supervision over the licensee's performance of acts for which a license is required.

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.

02/23/10
Dated

Brian Garay
BRIAN GARAY, Respondent

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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.

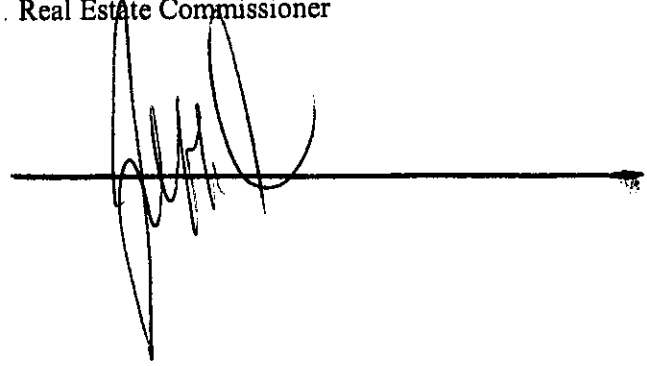
Therefore, IT IS HEREBY ORDERED that a restricted real estate salesperson license be issued to respondent BRIAN GARAY if respondent has otherwise fulfilled all of the statutory requirements for licensure. The restricted license shall be limited, conditioned, and restricted as specified in the foregoing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

This Order is effective immediately.

IT IS SO ORDERED

9/29/04

Jeff Davi
Real Estate Commissioner



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SHARI SVENINGSON, Counsel (SBN 195298)
Department of Real Estate
320 West 4th Street, Suite 350
Los Angeles, California 90013-1105

FILED
DEC - 9 2009
DEPARTMENT OF REAL ESTATE

H. Niderholt

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BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	NO. H-36376 LA
)	
BRIAN GARAY,)	
)	<u>STATEMENT OF ISSUES</u>
)	
Respondent.)	
)	

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, for cause of Statement of Issues against BRIAN GARAY, ("Respondent"), is informed and alleges as follows:

1.

The Complainant, Maria Suarez, a Deputy Real Estate Commissioner of the State of California, makes this Statement of Issues against Respondent in her official capacity.

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2.

1 Respondent made application to the Department of Real
2 Estate of the State of California for a real estate salesperson
3 license on or about March 14, 2008.
4

5 (CRIMINAL CONVICTION)

6 3.

7 On or about April 24, 2000, in the California Superior
8 Court, County of Los Angeles, in Case No. VA057372, Respondent
9 was convicted of violating Penal Code Section 245(a)(1) (Assault
10 With Deadly Weapon), a felony. This criminal conviction is
11 substantially related to the qualifications, functions or duties
12 of a real estate licensee under Title 10, Chapter 6, Section
13 2910, California Code of Regulations.
14

15 4.

16 The crime of which Respondent was convicted, as
17 alleged herein above in Paragraph 3, constitutes cause for
18 denial of Respondent's application for a real estate license
19 under Business and Professions Code Sections 475(a)(2);
20 480(a)(1); and/or 10177(b).

21 5.

22 (FAILURE TO REVEAL CONVICTION)

23 In response to Question 25 of his license application,
24 to wit: "HAVE YOU EVER BEEN CONVICTED OF ANY VIOLATION OF LAW?
25 CONVICTIONS EXPUNGED UNDER PENAL CODE SECTION 1203.4 MUST BE
26 DISCLOSED. HOWEVER, YOU MAY OMIT MINOR TRAFFIC CITATIONS WHICH
27

1 DO NOT CONSTITUTE A MISDEMEANOR OR FELONY OFFENSE". Respondent
2 answered "NO", and failed to reveal the conviction described in
3 Paragraph 3; above.

4 6.

5 Respondent's failure to reveal the conviction set
6 forth herein in Paragraph 3, above, in his license application,
7 constitutes knowingly making a false statement of material fact
8 required to be revealed in said application, which is grounds
9 for denial of the issuance of a license under Business and
10 Professions Code Sections 480(c) and 10177(a).

11 The Statement of Issues is brought under the
12 provisions of Section 10100, Division 4 of the Business and
13 Professions Code of the State of California and Sections 11500
14 and 11529 of the Government Code.

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WHEREFORE, Complainant prays that the above entitled matter be set for hearing and, upon proof of the charges contained herein, that the Commissioner refuse to authorize the issuance of, and deny the issuance of, a real estate salesperson license to Respondent, BRIAN GARAY, and for such other and further relief as may be proper in the premises.

Dated at Los Angeles, California

This 14th day of December, 2009.



Maria Suarez
Deputy Real Estate Commissioner

Cc: BRIAN GARAY
Excellence Dynasty, Inc.
Maria Suarez
Sacto.