

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

(213) 576-6982

FILED

JULY 19, 2012

DEPARTMENT OF REAL ESTATE
BY: CR

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of) DRE No. H-37289 LA
) OAH No. L-2011091145
ORANGE COUNTY METRO REALTY, INC.,)
ORANGE COUNTY METRO PROPERTIES,)
DEREK WALTER MARKOVIC,)
individually and as former) STIPULATION AND AGREEMENT
designated officer of Orange)
County Metro Realty, Inc.,)
BRENDA J. CABALLERO,)
INES P. SORIANO, and)
EZEQUIEL MARTIN PALOMINO,)
)
Respondents.)

In the Matter of the Order to) No. DRE No. H-37392 LA
Desist and Refrain to:)
)
ORANGE COUNTY METRO REALTY, INC.,)
ORANGE COUNTY METRO PROPERTIES,)
HOME DEFENDERS CENTER,)
JOSEPH ALOIS BRODERICK, and)
DEREK WALTER MARKOVIC.)
)

It is hereby stipulated by and between ORANGE COUNTY
METRO REALTY, INC. and ORANGE COUNTY METRO PROPERTIES (sometimes
referred to as "Respondents") and their attorney of record,

1 Jane Grilliot Kearl and the Complainant, acting by and through
2 Lissete Garcia, Counsel for the Department of Real Estate
3 ("Department"), as follows for the purpose of settling and
4 disposing of the First Amended Accusation filed on October 20,
5 2011, in Department Case No. H-37289 LA and the Order to Desist
6 and Refrain filed on July 14, 2011, in Department Case No.
7 H-37392 LA:

8 1. All issues which were to be contested and all
9 evidence which was to be presented by Complainant and
10 Respondents at a formal hearing on the First Amended Accusation
11 and the Order to Desist and Refrain, which hearing was to be
12 held in accordance with the provisions of the Administrative
13 Procedure Act ("APA"), shall instead and in place thereof be
14 submitted solely on the basis of the provisions of this
15 Stipulation and Agreement ("Stipulation").

16 2. Respondents have received, read and understand the
17 Statement to Respondent, the Discovery Provisions of the APA and
18 the First Amended Accusation, filed by the Department of Real
19 Estate ("Department") in this proceeding.

20 3. Respondents acknowledge receipt of the Order to
21 Desist and Refrain in Department Case No. H-37392 LA.
22 Respondents have filed Notices of Defense pursuant to Section
23 11506 of the Government Code for the purpose of requesting a
24 hearing on the allegations in the original Accusation in
25 Department Case No. H-37289 LA. Respondents hereby freely and
26 voluntarily withdraw said Notices of Defense. Respondents
27 acknowledge that they understand that by withdrawing said

1 Notices of Defense they will thereby waive their right to
2 require the Commissioner to prove the allegations in the Order
3 to Desist and Refrain and the First Amended Accusation at a
4 contested hearing held in accordance with the provisions of the
5 APA and that they will waive other rights afforded to them in
6 connection with the hearing such as the right to present
7 evidence in defense of the allegations in the Order to Desist
8 and Refrain and First Amended Accusation and the right to cross-
9 examine witnesses.

10 4. This Stipulation is based on the factual
11 allegations contained in the Order to Desist and Refrain and
12 First Amended Accusation filed in these proceedings. In the
13 interest of expedience and economy, Respondents choose not to
14 contest these factual allegations, but to remain silent and
15 understand that, as a result thereof, these factual statements,
16 will serve as a prima facie basis for the disciplinary action
17 stipulated to herein. The Real Estate Commissioner shall not be
18 required to provide further evidence to prove such allegations.
19 Further, as this Stipulation is based on Respondents' choice to
20 remain silent, nothing herein is an admission by Respondents of
21 the truth of any matter alleged in the First Amended Accusation
22 or Order to Desist and Refrain or related documents; nothing
23 herein is an admission by Respondents in regard to any defense.

24 5. This Stipulation and Respondents' decision not to
25 contest the Order to Desist and Refrain and First Amended
26 Accusation are made for the purpose of reaching an agreed
27 disposition of this proceeding and are expressly limited to this

1 proceeding and any other proceeding or case in which the
2 Department, or another licensing agency of this state, another
3 state or if the federal government is involved and otherwise
4 shall not be admissible in any other criminal or civil
5 proceedings.

6 6. It is understood by the parties that the Real
7 Estate Commissioner may adopt the Stipulation as his/her
8 decision in this matter thereby imposing the penalty and
9 sanctions on Respondents' real estate licenses and license
10 rights as set forth in the below "Order". In the event that the
11 Commissioner in his/her discretion does not adopt the
12 Stipulation, the Stipulation shall be void and of no effect, and
13 Respondents shall retain the right to a hearing on the Order to
14 Desist and Refrain and First Amended Accusation under all the
15 provisions of the APA and shall not be bound by any stipulation
16 or waiver made herein.

17 7. The Order or any subsequent Order of the Real
18 Estate Commissioner made pursuant to this Stipulation shall not
19 constitute an estoppel, merger or bar to any further
20 administrative or civil proceedings by the Department with
21 respect to any conduct which was not specifically alleged to be
22 causes for accusation in this proceeding.

23 DETERMINATION OF ISSUES

24 By reason of the foregoing stipulations and waivers
25 and solely for the purpose of settlement of the Order to Desist
26 and Refrain and First Amended Accusation without a hearing, in
27 light of the election to remain silent, Respondents understand

1 that the following determination of issues shall be made:

2 The conduct, acts and/or omissions of Respondents
3 ORANGE COUNTY METRO REALTY, INC. and ORANGE COUNTY METRO
4 PROPERTIES, as set forth in the First Amended Accusation,
5 constitute cause for the suspension or revocation of all the
6 real estate licenses and license rights of Respondents ORANGE
7 COUNTY METRO REALTY, INC. and ORANGE COUNTY METRO PROPERTIES
8 under the provisions of Section 10177(d) of the Business and
9 Professions Code ("Code") for violation of Code Sections 10085,
10 10146, and 10148, and Section 2970 of Title 10, Chapter 6,
11 California Code of Regulations.

12 ORDER

13 WHEREFORE, THE FOLLOWING ORDER is hereby made:

14 All licenses and licensing rights of Respondents
15 ORANGE COUNTY METRO REALTY, INC. and ORANGE COUNTY METRO
16 PROPERTIES under the Real Estate Law are hereby revoked;
17 provided, however, a restricted real estate broker license shall
18 be issued to each Respondent pursuant to Section 10156.5 of the
19 Business and Professions Code if each Respondent makes
20 application therefor and pays to the Department of Real Estate
21 the appropriate fee for the restricted license within ninety
22 (90) days from the effective date of this Decision. The
23 restricted licenses issued to Respondents shall be subject to
24 all of the provisions of Section 10156.7 of the Business and
25 Professions Code and to the following limitations, conditions
26 and restrictions imposed under authority of Section 10156.6 of
27 that Code:

1 1. The restricted licenses issued to Respondents may
2 be suspended prior to hearing by Order of the Real Estate
3 Commissioner in the event of Respondents' conviction or plea of
4 nolo contendere to a crime which is substantially related to
5 Respondents' fitness or capacity as a real estate licensee.

6 2. The restricted licenses may be suspended prior to
7 hearing by Order of the Real Estate Commissioner on evidence
8 satisfactory to the Commissioner that Respondents have violated
9 provisions of the California Real Estate Law, the Subdivided
10 Lands Law, Regulations of the Real Estate Commissioner or
11 conditions attaching to the restricted license.

12 3. Respondents shall not be eligible for the issuance
13 of an unrestricted real estate license nor for the removal of
14 any of the conditions, limitations or restrictions of a
15 restricted license until at least two (2) years have elapsed
16 from the effective date of this Decision.

17 4. Any restricted real estate license issued to
18 Respondents pursuant to this Decision shall be suspended for
19 sixty (60) days from the date of issuance of said restricted
20 license. If Respondents petition, forty (40) days of their
21 suspensions shall be stayed upon condition that:

22 a. Respondents each pay a monetary penalty pursuant
23 to Section 10175.2 of the Business and Professions Code at the
24 rate of \$250 for each day of their suspension for a total
25 monetary penalty of \$10,000 for each Respondent.

26 b. Said payments shall be in the form of a cashier's
27 check or certified check made payable to the Recovery Account of

1 the Real Estate Fund. Said check must be received by the
2 Department prior to the effective date of the Decision in this
3 matter.

4 c. No further cause for disciplinary action against
5 the real estate licenses of Respondents occurs within one year
6 from the effective ate of the Decision in this matter.

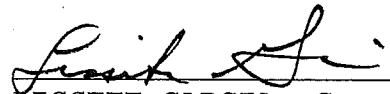
7 d. If Respondents fail to pay the monetary penalty in
8 accordance with the terms and conditions of the Decision, the
9 Commissioner, may without a hearing, order the immediate
10 execution of all or any part of the stayed suspension in which
11 event the Respondents shall not be entitled to any repayment nor
12 credit, prorated or otherwise, for money paid to the Department
13 under the terms of this Decision.

14 e. If Respondents pay the monetary penalty and if no
15 further cause for disciplinary action against the real estate
16 licenses of Respondents occurs within one year from the
17 effective date of the Decision, the stay hereby granted shall
18 become permanent.

19 5. Respondents shall submit proof of restitution made
20 jointly, or individually by either Respondent, to the following
21 borrowers: \$3,000 to Maria Martinez and Antonio Manjarrez,
22 \$3,000 to Agustin and Lidia Enriquez, \$1,500 to Manuel Navarro
23 Elias, and \$3,000 to Guadalupe Roa on or before the effective
24 date of this Decision. (1) Respondents shall make a diligent
25 effort to locate and repay said borrowers. Respondents shall
26 mail the payment(s) by certified mail, return receipt requested,
27 to the borrower's last address on file with or known to

1 Respondents. (2) If any of the payment(s) are returned by the
2 Post Office marked "unable to deliver," Respondents shall employ
3 a locator service (that may be limited to or include or be
4 limited to the internet or other database retrieval search) to
5 try and locate the aforesaid borrowers. Repayments shall then
6 be made to the address(es) recommended by the locator service.
7 (3) If unable to effect repayment after using a locator service,
8 Respondents shall provide reasonable proof satisfactory to the
9 Commissioner of their efforts to comply with the provisions of
10 this paragraph. (4) If the Commissioner determines that proof
11 to be unsatisfactory, the Commissioner shall so advise
12 Respondents, and indicate what additional reasonable efforts
13 should be made to make repayment to the borrower(s). (5) If
14 the Commissioner determines that reasonable efforts have been
15 made to locate the borrower(s) without success, Respondents
16 shall not be liable for any further repayment. (6) If the
17 Commissioner determines that proof to be unsatisfactory and that
18 reasonable efforts have not been made to locate the borrower(s),
19 the Commissioner may, by separate order, suspend Respondents'
20 licenses for sixty (60) days. (7) All proof shall be submitted
21 to Department Counsel Lissete Garcia, Attention: Legal Section,
22 Department of Real Estate 320 W. Fourth St., Suite 350, Los
23 Angeles, California 90013-1105, on or before the effective date
24 of this Decision.

25
26 DATED: 5-8-12


LISSETE GARCIA, Counsel for
the Department of Real Estate

27 * * *

1 We have read the Stipulation and Agreement, have
2 discussed it with our counsel, and its terms are understood by us
3 and are agreeable and acceptable to us. We understand that we
4 are waiving rights given to us by the California Administrative
5 Procedure Act (including but not limited to Sections 11506,
6 11508, 11509 and 11513 of the Government Code), and we willingly,
7 intelligently and voluntarily waive those rights, including the
8 right of requiring the Commissioner to prove the allegations in
9 the Order to Desist and Refrain and First Amended Accusation at a
10 hearing at which we would have the right to cross-examine
11 witnesses against us and to present evidence in defense and
12 mitigation of the charges.

13 Respondents can signify acceptance and approval of the
14 terms and conditions of this Stipulation and Agreement by faxing
15 a copy of the signature page, as actually signed by Respondents,
16 to the Department at the following telephone/fax number: (213)
17 576-6917. Respondents agree, acknowledge and understand that by
18 electronically sending to the Department a fax copy of their
19 actual signatures as they appear on the Stipulation and
20 Agreement, that receipt of the faxed copy by the Department shall
21 be as binding on Respondents as if the Department had received
22 the original signed Stipulation and Agreement.
23

24 ///

25 ///

26 ///

Further, if the Respondents are represented by counsel,
the Respondents' counsel can signify her agreement to the terms
and conditions of the Stipulation and Agreement by submitting
that signature via fax.

DATED: 4/27/12


ORANGE COUNTY METRO REALTY, INC.

By Susan Holly (Print Name)

Secretary/treasurer (Title)

DATED: 04/27/12


ORANGE COUNTY METRO PROPERTIES

By Susan Holly (Print Name)

Secretary/treasurer (Title)

DATED: _____

Jane Grilliot Kearn
Counsel for Respondents
Approved as to Form

* * *

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

IT IS SO ORDERED _____

Real Estate Commissioner

1 Further, if the Respondents are represented by counsel,
2 the Respondents' counsel can signify her agreement to the terms
3 and conditions of the Stipulation and Agreement by submitting
4 that signature via fax.

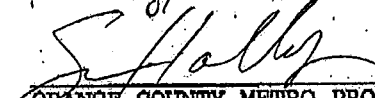
5 DATED: 4/27/12


ORANGE COUNTY METRO REALTY, INC.

6 By Susan Holly (Print Name)

7 Secretary/treasurer (Title)

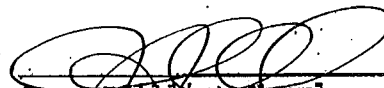
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9 DATED: 04/27/12


ORANGE COUNTY METRO PROPERTIES

10 By Susan Holly (Print Name)

11 Secretary/treasurer (Title)

12
13 DATED: 4/30/12

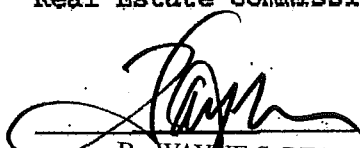

Jane Grinnot Kearl
Counsel for Respondents
Approved as to Form

16 * * *

17 The foregoing Stipulation and Agreement is hereby
18 adopted as my Decision in this matter and shall become effective
19 at 12 o'clock noon on August 8, 2012.

20 IT IS SO ORDERED 6/5/2012

21
22 Real Estate Commissioner

23
24 
25 By WAYNE S. BELL
26 Chief Counsel