

FILED

DEC 11 2012

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

DEPARTMENT OF REAL ESTATE
BY: Jana B. Olson

4 Telephone: (213) 576-6982
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8

9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of)
13 ARACELI RAMIREZ, dba Zerimar)
14 Realty and formerly dba The)
15 American Relief,)
16 Respondent.)

DRE No: H-37897 LA
OAH No: 2012031219

STIPULATION
AND
AGREEMENT

17
18 It is hereby stipulated by and between ARACELI RAMIREZ,
19 and the Complainant, acting by and through James A. Demus,
20 Counsel for the Department of Real Estate, as follows for the
21 purpose of settling and disposing of the Accusation filed on
22 February 21, 2012, in this matter:

23 1. All issues which were to be contested and all
24 evidence which was to be presented by Complainant and Respondent
25 at a formal hearing on the Accusation, which hearing was to be
26 held in accordance with the provisions of the Administrative
27 Procedure Act ("APA"), shall instead and in place thereof be

1 submitted solely on the basis of the provisions of this
2 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 11506 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 the 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 his 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. In the interest of
21 expedience and economy, Respondent chooses not to contest these
22 allegations, but to remain silent and understands that, as a
23 result thereof, these factual allegations, without being admitted
24 or denied, will serve as a prima facie basis for the disciplinary
25 action stipulated to herein. The Real Estate Commissioner shall
26 not be required to provide further evidence to prove said factual
27 allegations.

1 5. This Stipulation is made for the purpose of
2 reaching an agreed disposition of this proceeding and is
3 expressly limited to this proceeding and any other proceeding or
4 case in which the Department of Real Estate ("Department"), the
5 state or federal government, or any agency of this state, another
6 state or federal government is a party.

7 6. It is understood by the parties that the Real
8 Estate Commissioner may adopt this Stipulation as his Decision in
9 this matter thereby imposing the penalty and sanctions on
10 Respondent's real estate license and license rights as set forth
11 in the "Order" herein below. In the event that the Commissioner
12 in his discretion does not adopt the Stipulation, it shall be
13 void and of no effect and Respondents shall retain the right to a
14 hearing and proceeding on the Accusation under the provisions of
15 the APA and shall not be bound by any stipulation or waiver made
16 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 of Real
21 Estate with respect to any matters which were not specifically
22 alleged to be causes for Accusation in this proceeding but do
23 constitute a bar, estoppel and merger as to any allegations
24 actually contained in the Accusation against Respondent herein.

25 8. Respondent understands that by agreeing to this
26 Stipulation, Respondent agrees to pay, pursuant to Business and
27 Professions Code Section 10148, the cost of the audit which led

1 to this disciplinary action. The amount of said cost is
2 \$3,610.62.

3 9. Respondent has received, read, and understands the
4 "Notice Concerning Costs of Audits." Respondent further
5 understands that by agreeing to this Stipulation, the findings
6 set forth below in the Determination of Issues become final, and
7 the Commissioner may charge Respondent for the cost of any
8 subsequent audit conducted pursuant to Business and Professions
9 Code Section 10148 to determine if the violations have been
10 corrected. The maximum cost of the subsequent audit will not
11 exceed \$3,610.62.

12 DETERMINATION OF ISSUES

13 By reason of the foregoing, it is stipulated and agreed
14 that the following determination of issues shall be made:

15 I.

16 The conduct of ARACELI RAMIREZ as described in
17 Paragraph 4, hereinabove, is in violation of Business and
18 Professions Code ("Code") Sections 10145, 10146, 10085 and
19 10176(e), and provides a basis for discipline of her license and
20 license rights pursuant to Code Sections 10176(e), 10177(d),
21 10177(g) and 10177(h).

22 ORDER

23 WHEREFORE, THE FOLLOWING ORDER is hereby made:

24 I.

25 All licenses and licensing rights of Respondent ARACELI
26 RAMIREZ under the Real Estate Law are suspended for a period of
27 ninety (90) days from the effective date of this Decision;

1 provided, however, that sixty (60) days of said suspension, shall
2 be stayed for two (2) years upon the following terms and
3 conditions:

4 A.

5 1. Respondent shall obey all laws, rules and
6 regulations governing the rights, duties and responsibilities of
7 a real estate licensee in the State of California; and

8 2. That no final subsequent determination be made,
9 after hearing or upon stipulation that cause for disciplinary
10 action occurred within two (2) years of the effective date of
11 this Decision. Should such a determination be made, the
12 Commissioner may, in his discretion, vacate and set aside the
13 stay order and reimpose all or a portion of the stayed
14 suspension. Should no such determination be made, the stay
15 imposed herein shall become permanent.

16 B.

17 If Respondent petitions, an additional thirty (30) days
18 shall be stayed upon condition that:

19 1. Respondent pays a monetary penalty pursuant to
20 Section 10175.2 of the Code at the rate of \$50 for each day of
21 the suspension for a total monetary penalty of \$1,500.

22 2. Said payment shall be in the form of a cashier's
23 check or certified check made payable to the Recovery Account of
24 the Real Estate Fund. Said check must be received by the
25 Department prior to the effective date of the Decision in this
26 matter.

27

1 3. No further cause for disciplinary action against
2 the real estate license of Respondent occurs within one year from
3 the effective date of the Decision in this matter.

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

11 5. If Respondent pays the monetary penalty and if no
12 further cause for disciplinary action against the real estate
13 license of Respondent occurs within two years from the effective
14 date of the Decision, the stay hereby granted shall become
15 permanent.

16 II.

17 Pursuant to Section 10148 of the Business and
18 Professions Code, Respondent shall pay the Commissioner's
19 reasonable cost for: the audit which led to this disciplinary
20 action. The amount of said cost is \$3,610.62. In calculating
21 the amount of the Commissioner's reasonable cost, the
22 Commissioner may use the estimated average hourly salary for all
23 persons performing audits of real estate brokers, and shall
24 include an allocation for travel costs, including mileage, time
25 to and from the auditor's place of work and per diem. Respondent
26 shall pay such costs within 60 days of receiving an invoice from
27 the Commissioner detailing the activities performed during the

1 audit and the amount of time spent performing those activities.
2 The Commissioner may, in his discretion, vacate and set aside the
3 stay order, if payment is not timely made as provided for herein,
4 or as provided for in a subsequent agreement between the
5 Respondent and the Commissioner. The vacation and the set aside
6 of the stay shall remain in effect until payment is made in full,
7 or until Respondent enters into an agreement satisfactory to the
8 Commissioner to provide for payment.

9 III.

10 All licenses and licensing rights of Respondent ARACELI
11 RAMIREZ are indefinitely suspended unless or until Respondent
12 provides proof satisfactory to the Commissioner, of having taken
13 and successfully completed the continuing education course on
14 trust fund accounting and handling specified in paragraph (3) of
15 subdivision (a) of Section 10170.5 of the Business and
16 Professions Code. Proof of satisfaction of this requirement
17 includes evidence that respondent has successfully completed the
18 trust fund account and handling continuing education course
19 within 120 days prior to the effective date of the Decision in
20 this matter.

21 IV.

22 Respondent ARACELI RAMIREZ shall, by the effective of
23 the Decision herein, provide proof of paying restitution as
24 follows: \$1,250 to Maria Rivera, \$450 to Patrick Brigaudin, \$135
25 to Carrol and Gloria Watson, \$838.04 to Jean Michel, \$2.50 to
26 Diane Brooks and \$1,563.06 to Jackie Burns (hereinafter
27 "borrowers").

1 (a) Respondent shall deliver or mail the restitution
2 payments, by certified mail, return receipt requested, to each
3 borrower's last address on file with or known to Respondent.

4 (b) If a payment is returned by the Post Office marked
5 "unable to deliver," Respondent shall employ a locator service
6 (that may include or be limited to the Internet or other database
7 retrieval search) to try and locate the borrower. Repayment
8 shall then be made to the addresses recommended by the locator
9 service.

10 (c) If unable to effect repayment after using a locator
11 service, Respondent shall provide reasonable proof satisfactory
12 to the Commissioner of his efforts to comply with the provisions
13 of this Paragraph.

14 (d) If the Commissioner determines that proof to be
15 unsatisfactory, he shall so advise Respondent, and indicate what
16 additional reasonable efforts should be made to make repayment.

17 (e) If Respondent fails to satisfy this condition, the
18 Commissioner may order suspension of Respondent's license until
19 Respondent effects compliance herein; and


20 (f) Restitution payments not made to any borrower shall
21 escheat to the State of California.

22 V.

23 All proof of payment and completed coursework shall be
24 submitted to Department Counsel James A. Demus, Attention: Legal
25 Section, Department of Real Estate, 320 W. Fourth St., Suite 350,
26 Los Angeles, California 90013-1105, on or before the dates set
27 forth above.

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DATED: 10/19/12



JAMES A. DEMUS, Counsel for
the Department of Real Estate

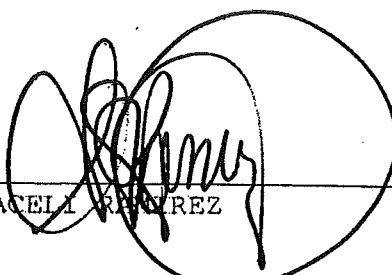
EXECUTION OF THE STIPULATION

I have read the Stipulation. Its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

Respondent can signify acceptance and approval of the terms and conditions of this Stipulation by faxing a copy of its signature page, as actually signed by Respondent, to the Department at the following telephone/fax number: James A. Demus at (213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of Respondent's actual signature, as it appears on the Stipulation, 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.

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DATED: 10/19/12


ARACELI RAMIREZ

The foregoing Stipulation and Agreement is hereby
adopted as my Decision as to Respondent ARACELI RAMIREZ and shall
become effective at 12 o'clock noon on JAN 10 2013,
2012.

IT IS SO ORDERED November 26, 2012.

Real Estate Commissioner

