

Sachs Blog

FILED

MAR 28 2013

1 Department of Real Estate
320 West 4th Street, Suite 350
2 Los Angeles, California 90013
3 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE
BY: *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JAMES NEAL HARRIS,) NO. H-38100 LA
13) 2012060513
14 Respondent.) STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between JAMES NEAL
16 HARRIS ("Respondent") and his attorney of record, Frank M. Buda,
17 Esq., and the Complainant, acting by and through Diane Lee,
18 Counsel for the Department of Real Estate, as follows for the
19 purpose of settling and disposing of the Accusation filed on May
20 3, 2012 in this matter:

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

1 Stipulation and Agreement.

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

6 3. On May 18, 2012, Respondent filed a Notice of
7 Defense pursuant to California Government Code Section 11506 for
8 the purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that he
11 understands that by withdrawing said Notice of Defense, he will
12 thereby waive his right to require the Commissioner to prove the
13 allegations in the Accusation at a contested hearing held in
14 accordance with the provisions of the APA and that he will waive
15 other rights afforded to him in connection with the hearing, such
16 as the right to present evidence in defense of the allegations in
17 the Accusation and the right to cross-examine witnesses.

18 4. Respondent, pursuant to the limitations set forth
19 below, hereby admits that the factual allegations of the
20 Accusation filed in this proceeding are true and correct and the
21 Real Estate Commissioner shall not be required to provide further
22 evidence of such allegations. The factual allegations are as
23 follows: On or about May 18, 2009, in the Superior Court of
24 California, County of Riverside, in case no. INM196293,
25 Respondent was convicted of violating California Penal Code
26 Section 242 (battery), a misdemeanor.

1 5. It is understood by the parties that the Real
2 Estate Commissioner may adopt the Stipulation and Agreement as
3 his Decision in this matter, thereby imposing the penalty and
4 sanctions on Respondent's real estate license and license rights
5 as set forth in the below "Order." In the event that the
6 Commissioner in his discretion does not adopt the Stipulation and
7 Agreement, it shall be void and of no effect, and Respondent
8 shall retain the right to a hearing and proceeding on the
9 Accusation under all the provisions of the APA and shall not be
10 bound by any admission or waiver made herein.

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

18 DETERMINATION OF ISSUES

19 By reason of the foregoing stipulations, admissions,
20 and waivers and solely for the purpose of settlement of the
21 pending Accusation without a hearing, it is stipulated and agreed
22 that the following determination of issues shall be made:

23 The conduct of Respondent, as set forth in the
24 Accusation, is grounds for the suspension or revocation of all of
25 the real estate licenses and license rights of Respondent under
26 the provision of California Business and Professions Code
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1 Sections 490 and 10177(b).

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ORDER

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WHEREFORE, THE FOLLOWING ORDER is hereby made:

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All licenses and licensing rights of Respondent JAMES

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NEAL HARRIS, under the Real Estate Law are revoked; provided,

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however, a restricted real estate salesperson license shall be

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issued to Respondent pursuant to California Business and

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Professions Code Section 10156.5 if Respondent makes application

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therefor and pays to the Department of Real Estate the

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appropriate fee for the restricted license within 90 days from

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the effective date of this Decision. The restricted license

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issued to Respondent shall be subject to all of the provisions

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of California Business and Professions Code Section 10156.7 and

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to the following limitations, conditions, and restrictions

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imposed under authority of the California Business and

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Professions Code:

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1. The restricted license issued to Respondent may be

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suspended prior to hearing by Order of the Real Estate

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Commissioner in the event of Respondent's conviction or plea of

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nolo contendere to a crime which is substantially related to

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Respondent's fitness or capacity as a real estate licensee.

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2. The restricted license issued to Respondent may be

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suspended prior to hearing by Order of the Real Estate

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Commissioner on evidence satisfactory to the Commissioner that

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Respondent has violated provisions of the California Real Estate

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1 Law, the Subdivided Lands Law, Regulations of the Real Estate
2 Commissioner, or conditions attaching to this restricted
3 license.

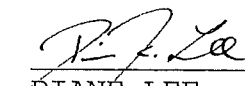
4 3. Respondent shall not be eligible to apply for the
5 issuance of an unrestricted real estate license nor for the
6 removal of any of the conditions, limitations, or restrictions
7 of a restricted license until three (3) years have elapsed from
8 the date of issuance of the restricted license to Respondent.

9 4. Respondent shall submit with any application for
10 license under an employing broker, or any application for
11 transfer to a new employing broker, a statement signed by the
12 prospective employing real estate broker on a form approved by
13 the Department of Real Estate which shall certify: (a) That the
14 employing broker has read the Decision of the Commissioner which
15 granted the right to a restricted license; and (b) That the
16 employing broker will exercise close supervision over the
17 performance by the restricted licensee relating to activities
18 for which a real estate license is required.

19 5. Respondent shall, within nine (9) months from the
20 effective date of this Decision, present evidence satisfactory to
21 the Real Estate Commissioner that Respondent has taken and
22 successfully completed the continuing education requirements of
23 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a
24 real estate license. Proof of satisfaction of this requirement
25 includes evidence that Respondent has successfully completed the
26 continuing education requirements within 160 days prior to the
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1 effective date of the Decision in this matter. If Respondent
2 fails to satisfy this condition, the Commissioner may order the
3 suspension of the restricted license until the Respondent
4 presents such evidence. The Commissioner shall afford Respondent
5 the opportunity for a hearing pursuant to the Administrative
6 Procedure Act to present such evidence.

7 6. Respondent shall notify the Commissioner in
8 writing within 72 hours of any arrest by sending a certified
9 letter to the Commissioner at the Department of Real Estate,
10 Post Office Box 187000, Sacramento, CA 95818-7000. The letter
11 shall set forth the date of Respondent's arrest, the crime for
12 which Respondent was arrested, and the name and address of the
13 arresting law enforcement agency. Respondent's failure to
14 timely file written notice shall constitute an independent
15 violation of the terms of the restricted license and shall be
16 grounds for the suspension or revocation of that license.

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18 DATED: 02/14/2013 
19 DIANE LEE
20 Counsel for Complainant

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02/14/2013 THU 13:44 FAX --- FRANK Buda

007/008

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

12 Respondent can signify acceptance and approval of the
 13 terms and conditions of this Stipulation and Agreement by faxing
 14 a copy of the signature page, as actually signed by Respondent,
 15 to the Department at fax number (213) 576-6917. Respondent
 16 agrees, acknowledges and understands that by electronically
 17 sending to the Department a fax copy of his actual signature as
 18 it appears on the Stipulation and Agreement, that receipt of the
 19 faxed copy by the Department shall be as binding on Respondent
 20 as if the Department had received the original signed
 21 Stipulation and Agreement.

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 23 DATED: 2/14/13


 24 JAMES NEAL HARRIS
 Respondent

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

DATED: 2-14-13 Frank M. Buda
FRANK M. BUDA
Respondent's Counsel

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 _____, 2013.

Real Estate Commissioner

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

DATED: _____
FRANK M. BUDA
Respondent's Counsel

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on April 17, 2013.

IT IS SO ORDERED 3/13/2013,

Real Estate Commissioner

WAYNE S. BELL