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FILED

1 Department of Real Estate
2 320 W. 4th St., Room 350
3 Los Angeles, California 90013

JUL - 9 2013

4 Telephone: (213) 576-6982

DEPARTMENT OF REAL ESTATE
BY: James B. Peel

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11	In the Matter of the Accusation of)	No. H-38404 LA
12	METRO CITY, INC.;)
13	and ALEX MIGUEL IZQUIERDO)	<u>STIPULATION AND AGREEMENT</u>
14	individually and as)	
15	designated officer of)	
16	Metro City, Inc.,)	
17	Respondents.)	

18 It is hereby stipulated by and between METRO CITY,
19 INC. and ALEX MIGUEL IZQUIERDO (sometimes referred to as
20 Respondents), and the Complainant, acting by and through James
21 R. Peel, Counsel for the Department of Real Estate, as follows
22 for the purpose of settling and disposing of the Accusation
23 filed on September 11, 2012, in this matter.

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

5 2. Respondents have received, read and understand the
6 Statement to Respondent, the Discovery Provisions of the
7 Administrative Procedure Act ("APA") and the Accusation filed by
8 the Department of Real Estate in this proceeding.

9 3. On September 26, 2012, Respondents filed a Notice
10 of Defense pursuant to Section 11506 of the Government Code for
11 the purpose of requesting a hearing on the allegations in the
12 Accusation. Respondents hereby freely and voluntarily withdraw
13 said Notice of Defense. Respondents acknowledge that they
14 understand that by withdrawing said Notice of Defense they will
15 thereby waive their right to require the Commissioner to prove
16 the allegations in the Accusation at a contested hearing held in
17 accordance with the provisions of the APA and that they will
18 waive other rights afforded to them in connection with the
19 hearing such as the right to present evidence in defense of the
20 allegations in the Accusation and the right to cross-examine
21 witnesses.

22 4. This Stipulation is based on the factual
23 allegations contained in the Accusation filed in this
24 proceeding. In the interest of expedience and economy,
25 Respondents choose not to contest these factual allegations, but
26 to remain silent and understand that, as a result thereof, these
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1 factual statements, will serve as a prima facie basis for the
2 disciplinary action stipulated to herein. The Real Estate
3 Commissioner shall not be required to provide further evidence
4 to prove such allegations.

5 5. This Stipulation is made for the purpose of
6 reaching an agreed disposition of this proceeding and is
7 expressly limited to this proceeding and any other proceeding or
8 case in which the Department of Real Estate ("Department"), the
9 state or federal government, or an agency of this state, another
10 state or the federal government is involved.

11 6. It is understood by the parties that the Real
12 Estate Commissioner may adopt the Stipulation as his decision
13 in this matter thereby imposing the penalty and sanctions on
14 Respondents' real estate licenses and license rights as set
15 forth in the below "Order". In the event that the Commissioner
16 in his discretion does not adopt the Stipulation, the
17 Stipulation shall be void and of no effect, and Respondents
18 shall retain the right to a hearing and proceeding on the
19 Accusation under all the provisions of the APA and shall not be
20 bound by any stipulation or waiver made herein.
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22 ~~7. The Order or any subsequent Order of the Real~~
23 ~~Estate Commissioner made pursuant to this Stipulation shall not~~
24 ~~constitute an estoppel, merger or bar to any further~~
25 ~~administrative or civil proceedings by the Department of Real~~
26 ~~Estate with respect to any conduct which was not specifically~~
27 ~~alleged to be causes for accusation in this proceeding.~~

DETERMINATION OF ISSUES

1
2 By reason of the foregoing stipulations and waivers
3 and solely for the purpose of settlement of the pending
4 Accusation, it is stipulated and agreed that the following
5 determination of issues shall be made:

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7 The conduct, acts and/or omissions of Respondents
8 METRO CITY, INC. and ALEX MIGUEL IZQUIERDO, as set forth in the
9 Accusation, constitute cause for the suspension or revocation of
10 all of the real estate licenses and license rights of
11 Respondents under the provisions of Sections 10177(d) and
12 10177(g) of the Business and Professions Code ("Code") for
13 violation of Code Section 10145.

ORDER

14
15 All licenses and licensing rights of Respondents METRO
16 CITY, INC. and ALEX MIGUEL IZQUIERDO under the Real Estate Law
17 are suspended for a period of ninety (90) days from the
18 effective date of this Decision; provided, however, that sixty
19 (60) days of said suspension shall be stayed for two (2) years
20 upon the following terms and conditions:

21
22 1. Respondents shall obey all laws, rules and
23 regulations governing the rights, duties and responsibilities of
24 a real estate licensee in the State of California; and

25 2. That no final subsequent determination be made,
26 after hearing or upon stipulation that cause for disciplinary
27 action occurred within two (2) years of the effective date of

1 this Decision. Should such a determination be made, the
2 Commissioner may, in his discretion, vacate and set aside the
3 stay order and reimpose all or a portion of the stayed
4 suspension. Should no such determination be made, the stay
5 imposed herein shall become permanent.

6 3. Provided, however, that if Respondents petition,
7 the remaining thirty (30) days of said ninety (90) day
8 suspension shall be stayed upon condition that:

9 a. Respondent pays a monetary penalty pursuant to
10 Section 10175.2 of the Business and Professions Code at the rate
11 of \$50 for each day of the suspension for a total monetary
12 penalty of \$1,500 or \$3,000 for both Respondents.

13 b. Said payment shall be in the form of a cashier's
14 check or certified check made payable to the Recovery Account of
15 the Real Estate Fund. Said check must be received by the
16 Department prior to the effective date of the Decision in this
17 matter.

18 c. No further cause for disciplinary action against
19 the real estate licenses of Respondent occurs within two (2)
20 years from the effective date of the Decision in this matter.

21 d. If Respondent fails to pay the monetary penalty in
22 accordance with the terms and conditions of the Decision, the
23 Commissioner may, without a hearing, order the immediate
24 execution of all or any part of the stayed suspension in which
25 event the Respondent shall not be entitled to any repayment nor
26 credit, prorated or otherwise, for the money paid to the
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1 Department under the terms of this Decision.

2 e. If Respondent pays the monetary penalty and if no
3 further cause for disciplinary against the real estate license
4 of Respondent occurs within two (2) years from the effective
5 date of the Decision, the stay hereby granted shall become
6 permanent.

7 4. Respondent IZQUIERDO shall, within six months from
8 the effective date of this Decision, take and pass the
9 Professional Responsibility Examination administered by the
10 Department including the payment of the appropriate examination
11 fee. If Respondent fails to satisfy this condition, the
12 Commissioner may order suspension of Respondent's license until
13 Respondent passes the examination.

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

24 6. Pursuant to Section 10148 of the Business and
25 Professions Code, Respondents METRO CITY, INC. and IZQUIERDO
26 shall pay the Commissioner's reasonable cost for: a) the audit
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1 which led to this disciplinary action (\$11,205.70) and b) a
2 subsequent audit to determine if Respondent has corrected the
3 trust fund violations found in paragraphs 1 of the Determination
4 of Issues. In calculating the amount of the Commissioner's
5 reasonable cost, the Commissioner may use the estimated average
6 hourly salary for all persons performing audits of real estate
7 brokers, and shall include an allocation for travel costs,
8 including mileage, time to and from the auditor's place of work
9 and per diem. Respondent shall pay such cost within 60 days of
10 receiving an invoice from the Commissioner detailing the
11 activities performed during the audit and the amount of time
12 spent performing those activities. The Commissioner may, in his
13 discretion, vacate and set aside the stay order if payment is
14 not timely made as provided for herein, or as provided for in a
15 subsequent agreement between the Respondent and the
16 Commissioner. The vacation and the set aside of the stay shall
17 remain in effect until payment is made in full, or until
18 Respondent enters into an agreement satisfactory to the
19 Commissioner to provide for payment. Should no order vacating
20 the stay be issued, either in accordance with this condition or
21 condition "2" above, the stay imposed shall become permanent.

22
23 7. Respondents understand that by agreeing to this
24 Stipulation and Agreement, Respondents agree to pay, pursuant to
25 Section 10106 of the California Business and Professions Code
26 (Code), the cost of the investigation and enforcement which
27 resulted in the determination that Respondents committed the

1 violations found in the Determination of Issues. The amount of
2 said costs is \$234.

3 All licenses and licensing rights of Respondents are
4 indefinitely suspended unless or until Respondents pay the sum
5 of \$234 for the Commissioner's reasonable cost of the
6 investigation and enforcement which led to this disciplinary
7 action. Said payment shall be in the form of a cashier's check
8 or certified check made payable to the Real Estate Fund.

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10 DATED:

Jan. 30, 2013

James R. Peel
JAMES R. PEEL, Counsel for the
Department of Real Estate

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12 * * *

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

24 Respondent can signify acceptance and approval of the
25 terms and conditions of this Stipulation and Agreement by faxing
26 a copy of the signature page, as actually signed by Respondent,
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to the Department at the following telephone/fax number:

(213) 576-6917. Respondent agrees, acknowledges and understands that by electronically sending to the Department a fax copy of his or her actual signature as it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

Further, if the Respondent is represented, the Respondent's counsel can signify his or her agreement to the terms and conditions of the Stipulation and Agreement by submitting that signature via fax.

DATED: 1/20/2013 Ali Izquierdo METRO CITY, INC. Respondent

DATED: 1/20/2013 Alex Miguel Izquierdo ALEX MIGUEL IZQUIERDO Respondent

* * *

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

IT IS SO ORDERED

WAYNE S. BELL Real Estate Commissioner

1 to the Department at the following telephone/fax number:
2 (213) 576-6917. Respondent agrees, acknowledges and understands
3 that by electronically sending to the Department a fax copy of
4 his or her actual signature as it appears on the Stipulation and
5 Agreement, that receipt of the faxed copy by the Department
6 shall be as binding on Respondents as if the Department had
7 received the original signed Stipulation and Agreement.

8 Further, if the Respondent is represented, the
9 Respondent's counsel can signify his or her agreement to the
10 terms and conditions of the Stipulation and Agreement by
11 submitting that signature via fax.
12

13 DATED: _____ METRO CITY, INC.
14 Respondent

15 DATED: _____ ALEX MIGUEL IZQUIERDO
16 Respondent
17

18 * * *

19 The foregoing Stipulation and Agreement is hereby
20 adopted as my Decision and Order in this matter, and shall
21 become effective at 12 o'clock noon on AUG - 8 2013.

22 IT IS SO ORDERED 3/21/2013

23 WAYNE S. BELL
24 Real Estate Commissioner
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26
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