

1 Bureau of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

JUL 30 2015

BUREAU OF REAL ESTATE

By *Scott L. Davis*

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

* * *

11 In the Matter of the Accusation of)
12)
13 ALTA VISTA INVESTMENTS INC., and)
14 PAUL A. CUBILLOS, individually and as)
15 designated officer of Alta Vista Investments)
16 Inc.,)
17 Respondents,)

No. H-38473 LA

STIPULATION
AND
AGREEMENT

18 It is hereby stipulated by and between Respondent PAUL A. CUBILLOS,
19 designated officer of Alta Vista Investments Inc. (sometimes referred to as "Respondent"),
20 represented by Rizza Gonzales, Esq., of Century 21 Law Group, and the Complainant, acting by
21 and through Elliott Mac Lennan, Counsel for the Bureau of Real Estate, as follows for the
22 purpose of settling and disposing of the Accusation ("Accusation") filed on October 15, 2012, in
23 this matter:
24

25 1. All issues which were to be contested and all evidence which was to be
26 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
27

1 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA")
2 shall instead and in place thereof be submitted solely on the basis of the provisions of this
3 Stipulation and Agreement ("Stipulation").

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

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

16 4. This Stipulation is based on the factual allegations contained in the
17 Accusation. In the interest of expedience and economy, Respondent chooses not to contest
18 these allegations, but to remain silent and understands that, as a result thereof, these factual
19 allegations, without being admitted or denied, will serve as a prima facie basis for the
20 disciplinary action stipulated to herein. The Commissioner shall not be required to provide
21 further evidence to prove said factual allegations.
22

23 5. This Stipulation is made for the purpose of reaching an agreed disposition of
24 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
25 which the Bureau of Real Estate ("Bureau") the state or federal government, or any agency of
26
27

1 this state, another state or federal government is involved, and otherwise shall not be admissible
2 in any other criminal or civil proceedings.

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

11 7. The Order or any subsequent Order of the Commissioner made pursuant to
12 this Stipulation shall not constitute an estoppel, merger or bar to any further administrative or
13 civil proceedings by the Bureau of Real Estate with respect to any matters which were not
14 specifically alleged to be causes for Accusation in this proceeding but do constitute a bar,
15 estoppel and merger as to any allegations actually contained in the Accusation against
16 Respondent herein.
17

18 8. Respondent understands that by agreeing to this Stipulation, Respondent
19 agrees to pay, pursuant to Business and Professions Code Section 10148:
20

21 (1) The combined cost of the original two audits of Alta Vista
22 Investments Inc. [**Real Estate Sales Audit** - LA 100188 dated May 23, 2011] and
23 [**Broker Escrow Audit** - LA 090281 dated June 30, 2011] whose licensed rights expired
24 on August 16, 2012 and whom was dismissed on May 18, 2015, which led to this
25 disciplinary action, is \$14,326.44; and
26

27 (2) The cost of the [**Investigative Audit** - LA 130056 dated September

12, 2013] is included within the prior \$14,326.44.00; and

(3) The cost of the **Cure Shortage Audit** of Paul A. Cubillos audit to be performed **after** the effective date of the Decision herein. The amount of said cost is as yet undetermined.

10. Respondent understands that by agreeing to this Stipulation, Respondent agrees to pay, pursuant to Business and Professions Code Section 10106, the cost of the investigation and enforcement of this matter. The amount of said cost is \$12,000.00.

DETERMINATION OF ISSUES

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

Real Estate Sales audit - LA 100188

I.

The conduct of Respondent PAUL A. CUBILLOS as described in Paragraph 4 of the Stipulation, above, is in violation of Code Sections 10140.6, 10148 and 10176(a) and is a basis for suspension or revocation of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Section 10177(g).

Broker Escrow audit - LA 090281

II.

The conduct of Respondents PAUL A. CUBILLOS as described in Paragraph 4 of the Stipulation, above, is in violation of Code Sections 10145 and 10148 and Sections 2731, 2831, 2831.1, 2831.2, 2832, 2950(d), 2950(e), 2950(g), 2950(h) and 2951 of Title 10, Chapter 6 of the California Code of Regulations ("Regulations") and is a basis for suspension or revocation of Respondent's license and license rights as a violation of the Real Estate Law pursuant to Code Sections 10177(d) and 10177(g).

1 III.

2 The conduct of PAUL A. CUBILLOS, as described in Paragraph 4 of the
3 Stipulation, above, constitutes a failure to supervise and to keep Alta Vista Investments Inc. in
4 compliance with the Real Estate Law during the time that said Respondent was the officer
5 designated by a corporate broker licensee, in violation of Code Section 10159.2 and Regulation
6 2725 and is a basis for suspension or revocation of Respondent's s license and license rights as a
7 violation of the Real Estate Law pursuant to Code Section 10177(h).

8 ORDER

9 WHEREFORE, THE FOLLOWING ORDER is hereby made:

10 I.

11 The real estate broker license of Respondent PAUL A. CUBILLOS under the Real
12 Estate Law is revoked; provided, however, a restricted real estate salesperson license shall be
13 issued to Respondent, pursuant to Section 10156.5 of the Business and Professions Code, if
14 Respondent:

15 A. Makes application therefor and pays to the Bureau of Real Estate the
16 appropriate fee for the restricted license within ninety (90) days from the effective date of this
17 Decision. The restricted license issued to Respondent shall be subject to all of the provisions of
18 Section 10156.7 of the Code and the following limitations, conditions and restrictions imposed
19 under authority of Section 10156.6 of that Code.

20 B. Respondent shall, prior to and as a condition of the issuance of the restricted
21 license, submit proof satisfactory to the Commissioner of having taken and successfully
22 completed the continuing education course on trust fund accounting and handling specified in
23 paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof
24 of satisfaction of this requirement includes evidence that Respondent has successfully completed
25 the trust fund account and handling continuing education course within 120 days prior to the
26 effective date of the Decision in this matter.

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

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

10 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
11 real estate license nor for the removal of any of the conditions, limitations or restrictions of a
12 restricted license until four (4) years has elapsed from the effective date of the issuance of the
13 restricted license.

14 4. Respondent shall submit with any application for license under an employing
15 broker, or any application for transfer to a new employing broker, a statement signed by the
16 prospective employing real estate broker on a form approved by the Bureau of Real Estate which
17 shall certify:

18 (a) That the employing broker has read the Decision of the Commissioner
19 which granted the right to a restricted license; and

20 (b) That the employing broker will exercise close supervision over the
21 performance by the restricted licensee relating to activities for which a real
22 estate license is required.

23
24 5. Respondent shall within six (6) months from the effective date of the
25 restricted license, take and pass the Professional Responsibility Examination administered by
26 the Bureau including the payment of the appropriate examination fee. If Respondent fails to
27 satisfy this condition, the Commissioner may order suspension of the restricted license until

1 Respondent passes the examination.

2 6. Respondent shall, within nine (9) months from the effective date of this
3 Decision, present evidence satisfactory to the Real Estate Commissioner that Respondent has,
4 since the most recent issuance of an original or renewal real estate license, taken and
5 successfully completed the continuing education requirements of Article 2.5 of Chapter 3 of the
6 Real Estate Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
7 the Commissioner may order the suspension of Respondent's license until the Respondent
8 presents such evidence. The Commissioner shall afford Respondent the opportunity for a
9 hearing pursuant to the Administrative Procedure Act to present such evidence.

10 II.

11 All licenses and licensing rights of Respondent PAUL A. CUBILLOS under the
12 Real Estate Law are suspended for a period of thirty (30) days from the effective date of this
13 Decision.

14 A. Provided, however, that if Respondent requests, all thirty (30) days of said
15 suspension (or a portion thereof) shall be stayed upon condition that:

16 1. Respondent pays a monetary penalty pursuant to Section 10175.2 of the
17 Business and Professions Code at the rate of \$166.67 per day for each day of the suspension for a
18 total monetary penalty of \$5,000.

19 2. Said payment shall be in the form of a cashier's check or certified check made
20 payable to the Recovery Account of the Real Estate Fund. Said check must be received by the
21 Bureau prior to the effective date of the Decision in this matter.

22 3. No further cause for disciplinary action against the real estate license of
23 Respondent occurs within four (4) years from the effective date of the Decision in this matter.

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

1 Decision.

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

5 III.

6 A. Pursuant to Section 10148 of the Business and Professions Code, Respondent
7 shall pay the Commissioner's reasonable cost for the **original two audits and the follow-up**
8 **investigation audit** of Alta Vista Investments Inc. which led to this disciplinary action. The cost
9 of said combined audits which led to this disciplinary action is \$14,500.00.

10 B. Pursuant to Section 10148 of the Business and Professions Code, Respondent
11 shall pay the Commissioner's reasonable cost for the **cure shortage verification audit** of Alta
12 Vista Investments Inc. The cost of said audit to be performed after the effective date of the
13 Order is yet determined.

14 In calculating the amount of the Commissioner's reasonable cost, the
15 Commissioner may use the estimated average hourly salary for all persons performing audits of
16 real estate brokers, and shall include an allocation for travel time to and from the auditor's place
17 of work. Respondent is liable for the cost of the audit.

18 Respondent shall pay such cost within 60 days of receiving an invoice from the
19 Commissioner detailing the activities performed during the audit and the amount of time spent
20 performing those activities.

21 The Commissioner may suspend the license of Respondent pending a hearing
22 held in accordance with Section 11500, et seq., of the Government Code, if payment is not
23 timely made as provided for herein, or as provided for in a subsequent agreement between the
24 Respondent and the Commissioner. The suspension shall remain in effect until payment is
25 made in full or until Respondent enters into an agreement satisfactory to the Commissioner to
26 provide for payment, or until a decision providing otherwise is adopted following a hearing held
27 pursuant to this condition.

1 IV.

2 All licenses and licensing rights of Respondent PAUL A. CUBILLOS are
3 indefinitely suspended unless or until Respondent pays the sum of \$12,000.00 for the
4 Commissioner's reasonable cost of the investigation and enforcement which led to this
5 disciplinary action. Said payment shall be in the form of a cashier's check made payable to the
6 Bureau of Real Estate. Said check must be received by the Bureau prior to the effective date of
7 the Order in this matter.

8
9 V.

10 A. With reference to the future **Cure Shortage Audit, Respondent** shall, by the
11 effective date of the Decision herein:

12 1) Deposit the sum of \$30,000.00 into Century Law Group's Client Trust Account
13 as a partial cure of the shortage.

14 2) Submit all documents and opinions related to the remaining trust fund shortage
15 of \$202,222.60 (the original shortage of \$210,593.28, as set forth in the Accusation, was reduced
16 to \$202,222.60 on September 12, 2013, pursuant to the **prior** Investigative Audit Report findings
17 conducted on September 12, 2013).

18 B. Within thirty (30) days of receipt by Respondent of the **Cure Shortage Audit**
19 **Report** from the Bureau, which shall be conducted **after** the effective date of the Decision,
20 Respondent shall provide proof that the amount determined in said audit report as the final Alta
21 Vista Investments Inc. trust account shortage amount has been deposited into Century Law
22 Group's Client Trust Account, including the identification of the source of funds used to cure the
23 shortage, or if said audit report finds that the shortage is less than the deposited \$30,000, a refund
24 shall be due and payable to Respondent.
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1
2 C. Respondent shall be indefinitely suspended unless or until Respondent
3 provides proof satisfactory to the Commissioner that the amount determined by **Cure Shortage**
4 **Audit Report** as the final shortage of Alta Vista Investments Inc. has been deposited into
5 Century Law Group's Client Trust Account (which that have been cured to be conducted after the
6 effective date of the shortage.
7

8 GENERAL PROVISIONS

9 I.

10 As a further condition for the Commissioner to enter into this Stipulation,
11 Respondent PAUL A. CUBILLOS shall provide evidence satisfactory to the Real Estate
12 Commissioner that all violations cited in the Determination of Issues have been corrected prior
13 to the effective date of the Decision.

14 II.

15 All proof required by this Decision, shall be sent to the attention of Bureau of
16 Real Estate, Flag Section, P.O. Box 137013, Sacramento, CA 95813-7013. All checks, if any,
17 unless otherwise specified, are payable to the Bureau of Real Estate unless otherwise directed.
18 All proof required by this Decision, and all payments required herein, may be made by either
19 cashier's check or made by credit card. Credit card payments shall be accompanied by Form RE
20 909. Proof and payments shall be sent to the attention of Bureau of Real Estate, Flag Section,
21 and P.O. Box 137013, Sacramento, CA 95813-7013.
22

23
24 DATED: 7/20/15

25  for EM
ELLIOTT MAC LENNAN, Counsel for
Bureau of Real Estate
26
27

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

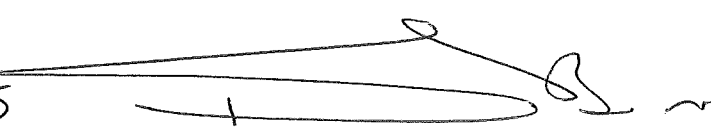
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9 MAILING/FACSIMILE

10 Respondent (1) shall **mail** the original signed signature page of the Stipulation
11 herein to Elliott Mac Lennan: Attention: Legal Section, Bureau of Real Estate, 320 W. Fourth
12 St., Suite 350, Los Angeles, California 90013-1105. Respondent (2) shall also **facsimile** a copy
13 of signed signature page, to the Bureau at the following fax number: (213) 576-6917, Attention:
14 Elliott Mac Lennan.

15 A facsimile constitutes acceptance and approval of the terms and conditions of
16 this Stipulation. Respondent agrees, acknowledges and understands that by electronically
17 sending to the Bureau a facsimile copy of Respondent's actual signature as it appears on the
18 Stipulation that receipt of the facsimile copy by the Bureau shall be as binding on Respondent as
19 if the Bureau had received the original signed Stipulation.

20
21 DATED: 6-4-2015


22 PAUL A. CUBILLOS
23 Respondent

24 DATED: _____

25 RIZZA GONZALES, ESQ
26 CENTURY LAW GROUP LLP
27 Attorneys for Respondent PAUL A. CUBILLOS
* * *

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2 understood by me and are agreeable and acceptable to me. I understand that I am waiving rights
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5 and voluntarily waive those rights, including the right of requiring the Commissioner to prove
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18 Stipulation that receipt of the facsimile copy by the Bureau shall be as binding on Respondent as
19 if the Bureau had received the original signed Stipulation.

20
21 DATED: _____

22 PAUL A. CUBILLOS
23 Respondent

24 DATED: July 20, 2015

25 
26 RIZZA GONZALES, ESQ.
27 CENTURY LAW GROUP LLP
Attorneys for Respondent PAUL A. CUBILLOS

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IT IS SO ORDERED July 21, 2015.

Real Estate Commissioner

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