

1 Department of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013

FILED

JUL 18 2013

BUREAU OF REAL ESTATE

By James A. Demus

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

DRE No. H-38815 LA

12 RAY CHARLES LEYVA,)

STIPULATION AND
AGREEMENT

13 Respondent.)
14)

15
16 It is hereby stipulated by and between RAY CHARLES
17 LEYVA and the Complainant, acting by and through James A. Demus,
18 Counsel for the Department of Real Estate, as follows for the
19 purpose of settling and disposing of the Accusation in this
20 matter, filed on April 16, 2013:

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
27 Stipulation and Agreement (Stipulation).

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

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

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

26 5. This Stipulation is based on Respondent's decision
27 not to contest the allegations set forth in the Accusation as a

1 result of the agreement negotiated between the parties. This
2 Stipulation is expressly limited to this proceeding and any
3 further proceeding initiated by or brought before the Department
4 of Real Estate based upon the factual allegations in the
5 Accusation and is made for the sole purpose of reaching an agreed
6 disposition of this proceeding. The decision of Respondent not
7 to contest the allegations contained in the "Order" herein below,
8 is made solely for the purpose of effectuating this Stipulation.
9 It is the intent and understanding of the parties that this
10 Stipulation shall not be binding or admissible against
11 Respondents in any action against Respondent by third parties.

12 6. It is understood by the parties that the Real
13 Estate Commissioner may adopt the Stipulation as his Decision in
14 this matter thereby imposing the penalty and sanctions on
15 Respondent's real estate license and license rights as set forth
16 in the "Order" herein below. In the event that the Commissioner
17 in his discretion does not adopt the Stipulation, it shall be
18 void and of no effect, and Respondent shall retain the right to a
19 hearing and proceeding on the Accusation under the provisions of
20 the APA and shall not be bound by any admission or waiver made
21 herein.

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 matters which were not specifically
27 alleged to be causes for accusation in this proceeding.

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

5 II.

6 Respondent RAY CHARLES LEYVA shall within six (6)
7 months from the effective date of the Decision herein, take and
8 pass the Professional Responsibility Examination administered by
9 the Department including the payment of the appropriate
10 examination fee. If Respondent fails to satisfy this condition,
11 the Commissioner may order suspension of Respondent's license
12 until Respondent passes the examination.

13 III.

14 Respondent RAY CHARLES LEYVA shall, by the effective of
15 the Decision herein, provide proof of attempting to pay
16 restitution of \$495 to Alejandro Gutierrez as follows:

17 (a) Respondent shall deliver or mail the restitution
18 payments, by certified mail, return receipt requested, to
19 Alejandro Gutierrez's last address on file with or known to
20 Respondent.

21 (b) If the payment is returned by the Post Office marked
22 "unable to deliver," Respondent shall employ a locator service
23 (that may include or be limited to the Internet or other database
24 retrieval search) to try and locate Alejandro Gutierrez.
25 Repayment shall then be made to the addresses recommended by the
26 locator service.

1 (c) If unable to effect repayment after using a locator
2 service, Respondent shall provide reasonable proof satisfactory
3 to the Commissioner of his efforts to comply with the provisions
4 of this Paragraph.

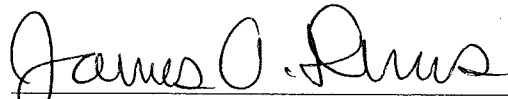
5 (d) If the Commissioner determines that proof to be
6 unsatisfactory, he shall so advise Respondent, and indicate what
7 additional reasonable efforts should be made to make repayment to
8 Alejandro Gutierrez.

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

12 (f) Restitution payments not made to Alejandro Gutierrez
13 shall escheat to the State of California.

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17 DATED:

6/21/13



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

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19 EXECUTION OF THE STIPULATION

20 I have read the Stipulation. Its terms are understood
21 by me and are agreeable and acceptable to me. I understand that
22 I am waiving rights given to me by the California Administrative
23 Procedure Act (including but not limited to Sections 11506,
24 11508, 11509 and 11513 of the Government Code), and I willingly,
25 intelligently and voluntarily waive those rights, including the
26 right of requiring the Commissioner to prove the allegations in
27

1 the Accusation at a hearing at which I would have the right to
2 cross-examine witnesses against me and to present evidence in
3 defense and mitigation of the charges.

4 Respondent can signify acceptance and approval of the
5 terms and conditions of this Stipulation by faxing a copy of the
6 signature page, as actually signed by Respondents, to the
7 Department at the following telephone/fax number: James A. Demus
8 at (213) 576-6917. Respondent agrees, acknowledges and
9 understands that by electronically sending to the Department a
10 fax copy of Respondent's actual signature as it appears on the
11 Stipulation, that receipt of the faxed copy by the Department
12 shall be as binding on Respondent as if the Department had
13 received the original signed Stipulation.

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16 DATED: 6/17/13


RAY CHARLES LEYVA

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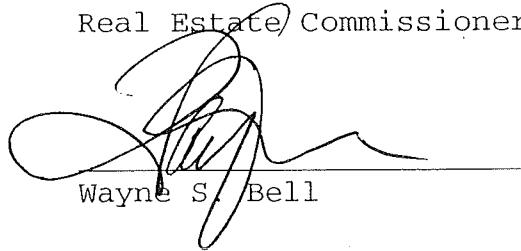
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2 The foregoing Stipulation and Agreement is hereby
3 adopted as my Decision as to Respondent RAY CHARLES LEYVA and
4 shall become effective at 12 o'clock noon on
5 AUG - 7 2013, 2013.

6 IT IS SO ORDERED 7/13, 2013

7 Real Estate Commissioner

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11 Wayne S. Bell
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