

FILED

JUL - 7 2017

BUREAU OF REAL ESTATE

By 

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Application of)	
)	BRE no. H-40474 LA
MARK R. MACIAS,)	OAH no. 2017010708
)	
Respondent.)	
)	

STIPULATION AND WAIVER AND DECISION AFTER REJECTION

The California Bureau of Real Estate ("Bureau") filed a Statement of Issues against MARK R. MACIAS ("Respondent") on November 21, 2016. On February 22, 2017, a hearing was held and evidence was received; the case was deemed submitted that same day.

On March 24, 2017, the Proposed Decision of the Administrative Law Judge Chantal M. Sampogna ("ALJ Sampogna") was issued, and determined, among other things, that Respondent's application for a real estate salesperson license should be denied; provided, however, Respondent is issued a restricted salesperson license by the Real Estate Commissioner pursuant to California Business and Professions Code sections 10156.7 and 10156.6 and certain terms and conditions herein.

On May 1, 2017, the Commissioner rejected the Proposed Decision of March 24, 2017.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

The parties wish to settle this matter without further proceedings.

IT IS HEREBY STIPULATED by and between Respondent MARK R. MACIAS, *pro per*, and the Bureau, acting by and through Diane Lee, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Statement of Issues filed by the Bureau.

1. It is understood by the parties that the Real Estate Commissioner may adopt the Stipulation and Waiver and Decision After Rejection as his decision in this matter, thereby denying Respondent’s application for a real estate salesperson license and license rights; provided, however, Respondent is issued a restricted salesperson license pursuant to California Business and Professions Code section 10156.5, and said restricted real estate salesperson license is subject to all the provisions of California Business and Professions Code section 10156.7 and certain terms and conditions imposed under authority of California Business and Professions Code section 10156.6, as set forth in the below “Decision and Order.” In the event the Commissioner in his discretion does not adopt the Stipulation, the Stipulation shall be void and of no effect; the Commissioner will review the transcript and the evidence in the case, and will issue his Decision after Rejection as his Decision in this matter.

2. By reason of the foregoing and solely for the purpose of settlement of the Statement of Issues without further administrative proceedings, it is stipulated and agreed that the following shall be adopted as the Commissioner’s Decision:

FACTUAL FINDINGS

The Factual Findings of the Proposed Decision of March 24, 2017 are adopted herein.

LEGAL CONCLUSIONS

The Legal Conclusions of the Proposed Decision of March 24, 2017 are adopted herein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

ORDER

The application of Respondent MARK R. MACIAS for a real estate salesperson license is denied; provided, however, a restricted real estate salesperson license shall be issued to Respondent California Business and Professions Code section 10156.5. The restricted licensed issued to Respondent shall be subject to all the provisions of California Business and Professions Code section 10156.7 and to the following limitations, conditions, and restrictions imposed under authority of California Business and Professions Code section 10156.6.

1. The restricted license shall not confer any property right in the privileges to be exercised, including, but not limited to, the right of renewal, and the Real Estate Commissioner may by appropriate order suspend the right to exercise any privileges granted under this restricted license in the event of:

a. Respondent's conviction (including a plea of nolo contendere) to a crime that bears a substantial relationship to Respondent's fitness or capacity as a real estate licensee; or

b. The receipt of evidence that Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of the Real Estate Commissioner, or conditions attaching to this restricted license.

2. Respondent shall not be eligible to apply for the issuance of an unrestricted real estate license nor the removal of any of the conditions, limitations, or restrictions attaching to the restricted license until three (3) years have elapsed from the date of issuance of the restricted license to Respondent. Respondent shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the license have been removed.

3. With the application for license or with the application for transfer to a new employing broker, Respondent shall submit a statement signed by the prospective employing broker on a form approved by the Bureau of Real Estate, such as the Restricted Salesperson

1 Change Application (RE 214A), wherein the employing broker shall certify as follows:

2 a. That broker has read this Decision and Order, which is the basis for the
3 issuance of the restricted license, and Proposed Decision, which is
4 incorporated, in part, herein; and

5 b. That broker will carefully review all transaction documents prepared by
6 the restricted licensee and otherwise exercise close supervision over the
7 licensee's performance of acts for which a license is required.

8 4. Respondent shall notify the Real Estate Commissioner in writing within
9 72 hours of any arrest by sending a certified letter to the Real Estate Commissioner at the Bureau
10 of Real Estate, Post Office Box 137013, Sacramento, CA 95813-7013. The letter shall set forth
11 the date of Respondent's arrest, the crime for which Respondent was arrested, and the name and
12 address of the arresting law enforcement agency. Respondent's failure to timely file written
13 notice shall constitute an independent violation of the terms of the restricted license and shall be
14 grounds for the suspension or revocation of that license.

15 5. Respondent shall retain attendance logs demonstrating that Respondent
16 has, each and every week, attended one or more sessions of Alcoholics Anonymous or similar
17 Twelve Step or substance abuse recovery program, or that such attendance in any week was
18 impractical due to travel for work, the illness of Respondent or a member of Respondent's
19 family, vacation, incarceration, residential treatment for substance abuse, extreme personal
20 hardship for Respondent or a member of Respondent's family, or family emergency. Respondent
21 shall provide such attendance logs upon written request from the Bureau. The Commissioner
22 may suspend the restricted license issued to Respondent pending a hearing held in accordance
23 with California Government Code section 11500, et seq., if such proof is not timely submitted as
24 provided for herein, or as provided for in a subsequent agreement between the Respondent and
25 the Commissioner. The suspension shall remain in effect until such proof is submitted or until
26 Respondent enters into an agreement satisfactory to the Commissioner to provide such proof, or
27

1 until a decision providing otherwise is adopted following a hearing held pursuant to this
2 condition.”

3
4 06/06/2017

5 DATED



6 Diane Lee, Counsel
7 Bureau of Real Estate

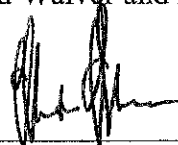
8 * * *

9 I have read the Stipulation and Waiver and Decision after Rejection, and its terms
10 are understood by me and are agreeable and acceptable to me. I willingly and voluntarily agree
11 to enter into this Stipulation and Waiver and Decision after Rejection.

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

19 May 27, 2017

20 DATED



21 Mark R. Macias
22 Respondent

23 ///

24 ///

25 ///

26 ///

27 ///

1 The foregoing Stipulation and Waiver and Decision After Rejection is hereby
2 adopted as my Decision in this matter and shall become effective at 12 o'clock noon on
3 July 27, 2017

4 IT IS SO ORDERED

7/7/2017

5 REAL ESTATE COMMISSIONER

6
7
8 
9 WAYNE S. BELL

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27