

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

FILED

JUN 28 2019

DEPT. OF REAL ESTATE
By Angela Ranner

BEFORE THE DEPARTMENT OF REAL ESTATE

STATE OF CALIFORNIA

10 In the Matter of the Accusation of)
11)
12 REULTRA INC;)
13)
14 ALBANESE REALTY INC; and)
15)
16 DAVID NICOLAS ALBANESE,)
17 individually and as former designated)
18 officer of Albanese Realty Inc, and as)
19 current designated officer of ReUltra Inc,)
Respondents.)

No. H-41188 LA

STIPULATION
AND
AGREEMENT

20 It is hereby stipulated by and between DAVID NICOLAS ALBANESE
21 ("Respondent") and the Complainant, acting by and through Julie L. To, Counsel for the
22 Department¹ of Real Estate ("Department" or "DRE"), as follows for the purpose of settling and
23 disposing of the Accusation ("Accusation") filed on October 18, 2018, in Case No. H-41188 LA,
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25 ¹ Between July 1, 2013 and June 30, 2017, the California Department of Real Estate was the California Bureau of
26 Real Estate.

1 in this matter.

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

7 2. Respondent has received, read and understands the Statement to Respondent,
8 the Discovery Provisions of the APA and the Accusation filed by the Department of Real Estate
9 ("Department") in this proceeding.

10 3. On November 16, 2018, Respondent timely filed a Notice of Defense pursuant
11 to Section 11506 of the Government Code for the purpose of requesting a hearing on the
12 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
13 of Defense. Respondent acknowledges that he understands that by withdrawing said Notice of
14 Defense he thereby waives his right to require the Commissioner to prove the allegations in the
15 Accusation at a contested hearing held in accordance with the provisions of the APA and that he
16 will waive other rights afforded to him in connection with the hearing such as the right to present
17 evidence in his defense and the right to cross-examine witnesses.

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

24 5. This Stipulation is made for the purpose of reaching an agreed disposition of
25 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
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1 that the following determination of issues shall be made:

2 The conduct, acts or omissions of Respondent DAVID NICOLAS ALBANESE,
3 as described in Paragraph 4, herein above, are in violation of: Code Section 10162 and Title 10,
4 Chapter 6, California Code of Regulations (“Regulation”) 2715; Code Section 10163; Code
5 Sections 10159.5 and 10163 and Regulation 2905; Code Sections 10159.5, 10163, 10130 and
6 10137; Code Sections 10130 and 10159.5; Code Sections 10130, 10142 and 10159.2; Regulation
7 2742(c) and Code Section 10159.2 and Regulation 2725; and Code Sections 10159.2 and
8 10177(h) and Regulation 2725, and are bases for the suspension or revocation of the license and
9 license rights of Respondent DAVID NICOLAS ALBANESE as a violation of the Real Estate
10 Law pursuant to Code Sections 10177(d), 10177(g), and 10177(h).

11 ORDER

12 WHEREFORE, THE FOLLOWING ORDER is hereby made:

13 I.

14 All licenses and licensing rights of Respondent DAVID NICOLAS ALBANESE
15 under the Real Estate Law are revoked; provided, however: a restricted real estate broker license
16 shall be issued to Respondent DAVID NICOLAS ALBANESE, to be issued pursuant to Code
17 Section 10156.5 if Respondent makes application therefore and pays to the Department the
18 appropriate fee for his restricted real estate broker license within ninety (90) days from the
19 effective date of this Decision and Order. The restricted license issued to Respondent DAVID
20 NICOLAS ALBANESE shall be subject to all of the provisions of Section 10156.7 of the Code
21 and to the following limitations, conditions and restrictions imposed under authority of Section
22 10156.6 of the Code:

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

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

8 3. Respondent shall not be eligible to apply for the issuance of unrestricted real
9 estate licenses nor for removal of any of the conditions, limitations or restrictions of a restricted
10 license until two (2) years have elapsed from the effective date of this Decision and Order.

11 4. Respondent shall, within six (6) months from the effective date of this
12 Decision and Order, take and pass the Professional Responsibility Examination administered by
13 the Department, including the payment of the appropriate examination fee. If Respondent fails
14 to satisfy this condition, Respondent's real estate license shall automatically be suspended until
15 Respondent passes the examination.

16 5. Respondent shall, within nine (9) months from the effective date of this
17 Decision and Order, present evidence satisfactory to the Commissioner that Respondent has,
18 since the most recent issuance of an original or renewal real estate license, taken and successfully
19 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
20 Law for renewal of a real estate license. If Respondent fails to satisfy this condition,
21 Respondent's real estate license shall automatically be suspended until Respondent presents
22 evidence satisfactory to the Commissioner of having taken and successfully completed the
23 continuing education requirements. Proof of completion of the continuing education courses
24 must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013,
25 Sacramento, CA 95813-7013.

1 6. All licenses and licensing rights of Respondent are indefinitely suspended
2 unless or until Respondent pays the sum of \$5,113.45 for the Commissioner's reasonable cost of
3 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
4 the form of a cashier's check or certified check made payable to the Department of Real Estate.
5 The investigation and enforcement costs must be delivered to the Department of Real Estate,
6 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this
7 Decision and Order.

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9 DATED: 5-28-19



Julie L. To, Counsel for
Department of Real Estate

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12 EXECUTION OF THE STIPULATION

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

20 MAILING AND FACSIMILE

21 Respondent can signify acceptance and approval of the terms and conditions of
22 this Stipulation and Agreement by sending a hard copy of the original signed signature page of
23 the Stipulation herein to Julie L. To, Legal Section, Department of Real Estate, 320 W. Fourth
24 St., Suite 350, Los Angeles, California 90013-1105. In the event of time constraints before an
25 administrative hearing, Respondent can signify acceptance and approval of the terms and
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1 conditions of this Stipulation and Agreement by e-mailing a scanned copy of the signature page,
2 as actually signed by Respondent, to the Department counsel assigned to this case. Respondent
3 agrees, acknowledges, and understands that by electronically sending to the Department a scan of
4 Respondent's actual signatures as it appears on the Stipulation and Agreement, that receipt of the
5 scan by the Department shall be binding on Respondent as if the Department had received the
6 original signed Stipulation and Agreement.

7 DATED: May 21, 2019



8 DAVID NICOLAS ALBANESE, Respondent

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11 The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
12 Respondent DAVID NICOLAS ALBANESE, individually and as former designated officer of
13 Albanese Realty Inc, and as current designated officer of ReUltra Inc, and shall become effective
14 at 12 o'clock noon on JUL 17 2019, 2019.

15 IT IS SO ORDERED June 18, 2019.

16 DANIEL J. SANDRI
17 ACTING REAL ESTATE COMMISSIONER

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