


1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
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5 Telephone: (916) 227-0789
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FILED

NOV 15 2007

DEPARTMENT OF REAL ESTATE



9 BEFORE THE DEPARTMENT OF REAL ESTATE

10 STATE OF CALIFORNIA

11 * * *

12 In the Matter of the Accusation of) DRE No. H-10045 SF
13 MOLLY GARCIA DIAZ,) STIPULATION AND AGREEMENT
14 Respondent.)

15 It is hereby stipulated by and between Respondent
16 MOLLY GARCIA DIAZ represented by Robert S. Sturges, Attorney at
17 Law, and the Complainant, acting by and through Angela L. Cash,
18 Counsel for the Department of Real Estate (herein "the
19 Department"), as follows for the purpose of settling and
20 disposing of the Accusation filed on June 22, 2007 in this
21 matter (herein "the Accusation"):

22 1. All issues which were to be contested and all
23 evidence which was to be presented by Complainant and Respondent
24 at a formal hearing on the Accusation, which hearing was to be
25 held in accordance with the provisions of the Administrative
26 Procedure Act (APA), shall instead and in place thereof be

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1 submitted solely on the basis of the provisions of this
2 Stipulation and Agreement.

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

6 3. On July 25, 2007, Respondent filed a Notice of
7 Defense pursuant to Section 11505 of the Government Code for the
8 purpose of requesting a hearing on the allegations in the
9 Accusation. Respondent hereby freely and voluntarily withdraws
10 said Notice of Defense. Respondent acknowledges that Respondent
11 understands that by withdrawing said Notice of Defense
12 Respondent will thereby waive Respondent's right to require the
13 Real Estate Commissioner (herein "the Commissioner") to prove
14 the allegations in the Accusation at a contested hearing held in
15 accordance with the provisions of the APA and that Respondent
16 will waive other rights afforded to Respondent in connection
17 with the hearing such as the right to present evidence in
18 defense of the allegations in the Accusation and the right to
19 cross-examine witnesses.

20 4. Respondent, pursuant to the limitations set forth
21 below, hereby admits that the factual allegations as to
22 Respondent in the Accusation are true and correct and the Real
23 Estate Commissioner shall not be required to provide further
24 evidence of such allegations.

25 5. It is understood by the parties that the Real
26 Estate Commissioner may adopt the Stipulation and Agreement as
27 his decision in this matter, thereby imposing the penalty and

1 rights of Respondent under the provisions of Sections 10159.5,
2 10163, 10165 in conjunction with 10177(d) of the Code.

3 ORDER

4 A. All real estate license(s) and license rights of
5 Respondent MOLLY GARCIA DIAZ are hereby revoked.

6 B. A restricted real estate broker license shall be
7 issued to Respondent pursuant to Section 10156.6 of the Code, if
8 she makes application therefor and pays to the Department of
9 Real Estate the appropriate fee for said license within ninety
10 (90) days from the effective date of the Decision.

11 C. The restricted broker license issued to
12 Respondent shall be subject to all of the provisions of Section
13 10156.7 of the Business and Professions Code and to the following
14 limitations, conditions, and restrictions imposed under
15 authority of Section 10156.6 of that Code:

16 (1) The restricted license issued to Respondent may
17 be suspended prior to hearing by Order of the
18 Real Estate Commissioner in the event of
19 Respondent's conviction or plea of nolo contendere
20 to a crime which is substantially related to
21 Respondent's fitness or capacity as a real estate
22 licensee.

23 (2) The restricted license issued to Respondent may
24 be suspended prior to hearing by Order of the
25 Real Estate Commissioner on evidence satisfactory
26 to the Commissioner that Respondent has violated
27 provisions of the California Real Estate Law, the

1 Subdivided Lands Law, Regulations of the Real
2 Estate Commissioner, or conditions attaching to
3 the restricted license.

4 (3) Respondent shall not be eligible to apply for the
5 issuance of an unrestricted real estate license,
6 nor the removal of any of the conditions of the
7 restricted license, until two (2) years have
8 elapsed from the effective date of this Decision.

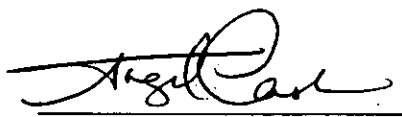
9 (4) Respondent shall, within nine (9) months from the
10 effective date of this Decision, present evidence
11 satisfactory to the Real Estate Commissioner that
12 Respondent has, since the most recent issuance of
13 an original or renewal real estate license, taken
14 and successfully completed the continuing
15 education requirements of Article 2.5 of Chapter
16 3 of the Real Estate Law for renewal of a real
17 estate license. If Respondent fails to satisfy
18 this condition, the Commissioner may order the
19 suspension of the restricted license until the
20 Respondent presents such evidence. The
21 Commissioner shall afford Respondent the
22 opportunity for hearing pursuant to the
23 Administrative Procedure Act to present such
24 evidence.

25 (5) Respondent shall, within six (6) months from the
26 effective date of this Decision, take and pass
27 the Professional Responsibility Examination

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administered by the Department including the
payment of the appropriate examination fee. If
Respondent fails to satisfy this condition, the
Commissioner may order suspension of Respondent's
license until Respondent passes the examination.

DATED: 10/2/07

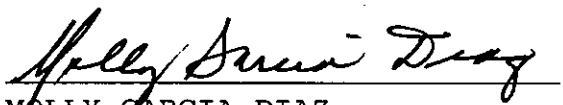


ANGELA L. CASH, Counsel
DEPARTMENT OF REAL ESTATE

* * *

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

DATED: SEP 20 2007



MOLLY GARCIA DIAZ
Respondent

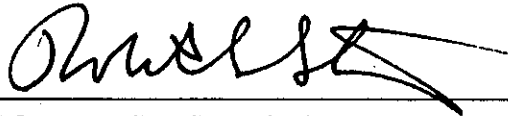
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I have reviewed the Stipulation and Agreement as to form and content and have advised my client accordingly.

SEP 20 2007



DATED: _____

ROBERT S. STURGES
Attorney for Respondent

* * *

The foregoing Stipulation and Agreement in Settlement is hereby adopted by the Real Estate Commissioner as his Decision and Order and shall become effective at 12 o'clock noon

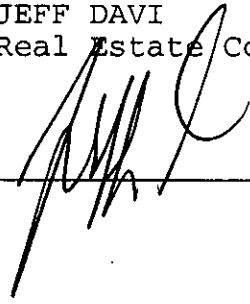
DEC - 6 2007

on _____

11-13-07

IT IS SO ORDERED _____

JEFF DAVI
Real Estate Commissioner



1 ANGELA L. CASH, Counsel (SBN 230882)
2 Department of Real Estate
3 P. O. Box 187000
4 Sacramento, CA 95818-7000
5 Telephone: (916) 227-0789
6 -or- (916) 227-0805 (Direct)

FILED
JUN 22 2007

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-10045 SF
12)
13 MOLLY GARCIA DIAZ,) ACCUSATION
14)
15 Respondent.)

16 The Complainant, E. J. Haberer II, a Deputy Real
17 Estate Commissioner of the State of California, for cause of
18 Accusation against MOLLY GARCIA DIAZ (herein "Respondent"), is
19 informed and alleges as follows:

20 I

21 The Complainant, E. J. Haberer II, a Deputy Real
22 Estate Commissioner of the State of California, makes this
23 Accusation in his official capacity.

24 II

25 At all times herein mentioned herein Respondent was
26 and now is licensed or has license rights under the Real Estate
27 Law (Part 1 of Division 4 of the Business and Professions Code)
(herein "the Code") as a real estate broker.

1 III

2 At all times herein mentioned Respondent engaged in
3 the business of, acted in the capacity of, advertised and
4 assumed to act as a real estate broker in the State of
5 California within the meaning of:

6 (a) Section 10131(a) of the Code, including the
7 operation and conduct of a real estate resale brokerage with the
8 public wherein, on behalf of others, for compensation or in
9 expectation of compensation, Respondent sold and offered to
10 sell, bought and offered to buy, solicited prospective sellers
11 and purchasers of, solicited and obtained listings of, and
12 negotiated the purchase and sale of real property;

13 (b) Section 10131(d) of the Code, including the
14 operation and conduct of a mortgage loan brokerage with the
15 public wherein, on behalf of others, for compensation or in
16 expectation of compensation, Respondent solicited lenders and
17 borrowers for loans secured directly or collaterally by liens on
18 real property, and wherein Respondent arranged, negotiated,
19 processed, and consummated such loans.

20 IV

21 From time to time during the three year period next
22 preceding the filing of this Accusation, Wenceslao Calderon and
23 Jose Aldama were real salespersons licensed under Respondent and
24 employed by Respondent conducting the activities described in
25 Paragraph III, above, but at no time mentioned herein did
26 Respondent maintain in effect a written broker-salesperson
27 relationship agreement with Wenceslao Calderon or Jose Aldama

1 covering compensation and/or supervision as required by Section
2 2726 of Chapter 6, Title 10, California Code of Regulations
3 (herein "the Regulations").

4 V

5 From time to time during the three year period next
6 preceding the filing of this Accusation, in course of the
7 activities described in Paragraph III, above, Respondent:

8 (a) Used the fictitious business names "M.G. & D.
9 Financial Services", "Silver Estates Realty", and "Image Real
10 Estate" without first obtaining a license issued by the
11 California Department of Real Estate bearing such fictitious
12 names, as required by Section 10159.5 of the Code in conjunction
13 with Section 2731 of the Regulations; and

14 (b) Maintained places of business at 175 S. Capitol
15 Avenue, San Jose, California, and 1187 E. Santa Clara St., San
16 Jose, California, in addition to the place of business
17 maintained by Respondent pursuant to section 10162 of the Code,
18 without first applying for and obtaining an additional license
19 for such branch offices so maintained by Respondent, in
20 violation of Section 10163 of the Code.

21 VI


22 The facts alleged above are grounds for the suspension
23 or revocation of the licenses and license rights of Respondent
24 under the following provisions of the Code and/or the
25 Regulations:

26 (a) As to Paragraph IV, under Section 2726 of the
27 Regulations in conjunction with Section 10177(d) of the Code;

1 (b) As to Paragraph V(a), under Section 10159.5 of
2 the Code and Section 2731 of the Regulations in conjunction with
3 Section 10177(d) of the Code; and

4 (c) As to Paragraph V(b), under Section 10163 of the
5 Code in conjunction with Sections 10165 and 10177(d) of the
6 Code.

7 WHEREFORE, Complainant prays that a hearing be
8 conducted on the allegations of this Accusation and that upon
9 proof thereof a decision be rendered imposing disciplinary
10 action against all licenses and license rights of Respondents
11 under the Real Estate Law (Part 1 of Division 4 of the Business
12 and Professions Code) and for such other and further relief as
13 may be proper under other applicable provisions of law.

14
15 
16 E. J. HABERER II
Deputy Real Estate Commissioner

17 Dated at Oakland, California
18 this 6th day of June, 2007.

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