

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0781

FILED

AUG 26 2013

BUREAU OF REAL ESTATE

By *L. Jones*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 RAUL ALCARAZ,)

13 Respondent.)

No. H-11505 SF

STIPULATION AND
AGREEMENT

14 It is hereby stipulated by and between RAUL ALCARAZ (Respondent), and
15 the Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real
16 Estate (Department), as follows for the purpose of settling and disposing the Accusation
17 (Accusation) filed on January 24, 2013 in this matter:

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

23 2. Respondent has received, read, and understands the Statement to
24 Respondent, and the Discovery Provisions of the APA filed by the Department in this
25 proceeding.
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1 3. Respondent filed a Notice of Defense pursuant to Section 11505 of the
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
3 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that he understands that by withdrawing said Notice of Defense he will thereby
5 waive his rights to require the Real Estate Commissioner (Commissioner) to prove the
6 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
7 APA, and that he will waive other rights afforded to him in connection with the hearing such as
8 the right to present evidence in defense of the allegations in the Accusation and the right to cross-
9 examine witnesses.

10 4. This stipulation is based on the factual allegations contained in the
11 Accusation. In the interest of expediency and economy, Respondent chooses not to contest these
12 factual allegations, but to remain silent and understands that, as a result thereof, these factual
13 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set
14 forth below. The Commissioner shall not be required to provide further evidence to prove such
15 allegations.

16 5. This Stipulation and Respondent's decision not to contest the Accusation
17 are made for the purpose of reaching an agreed disposition of this proceeding and are expressly
18 limited to this proceeding and any other proceeding or case in which the Department, the state or
19 federal government, an agency of this state, or an agency of another state is involved.

20 6. Respondent understands that by agreeing to this Stipulation and
21 Agreement, Respondent agrees to pay, the cost of the audit, which resulted in the determination
22 that Respondent committed the violation(s) found in the Determination of Issues. The amount
23 of said costs is \$2,052.00.

24 7. Respondent understands that by agreeing to this Stipulation and
25 Agreement, Respondents agree to pay, pursuant to Section 10106 of the Code, the cost of the
26 investigation and enforcement which resulted in the determination that Respondents committed
27 the violation(s) found in the Determination of Issues. The amount of said costs is \$1,255.50.

1 and license rights under the following sections of the Code and Title 10 of the California Code
2 of Regulations (Regulations):

3 (a) As to Paragraph 12, under Section 10177(d) (willful disregard or
4 violation of Real Estate Law) in conjunction with Section 10085.6 (unlawful collection of
5 advance fees related to loan modifications) of the Code; and

6 (b) As to Paragraph 13, under Sections 10177(d) (willful disregard or
7 violation of Real Estate Law) in conjunction with Section 10085 (failure to submit materials
8 used in collection of advance fees to Department) of the Code and Section 2970 (materials used
9 in collection of advance fees must be approved by Department prior to use) of the Regulations.

10 III

11 The acts and omissions of Respondent as described in the Third Cause of Action
12 of the Accusation are grounds for the suspension or revocation of Respondent's licenses and
13 license rights under the following sections of the Regulations:

14 (1) As to Paragraph 16(a) under Section 10177(d) of the Code in conjunction
15 with Section 10160 of the Code and Section 2753 of the Regulations;

16 (2) As to Paragraph 16(b), under Section 10177(d) of the Code in
17 conjunction with Section 16161.8 of the Code and Section 2752 of the Regulations; and

18 (3) As to Paragraph 16(c), under Section 10177(d) of the Code in conjunction
19 with Section 2715 of the Regulations.

20 * * *

21 ORDER

22 I

23 All licenses and licensing rights of Respondent under the Real Estate Law are
24 suspended for a period of ninety (90) days from the effective date of this Order; provided,

25 however, that:

26 1) Sixty (60) days of said suspension shall be stayed, upon the condition that Respondent

27 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to

1 Section 10175.2 of the Code at a rate of \$25 for each day of the suspension for a total
2 monetary penalty of \$1,500.

3 a) Said payment shall be in the form of a cashier's check or certified check made payable to
4 the Consumer Recovery Account of the Real Estate Fund. Said check must be delivered
5 to the Department prior to the effective date of the Order in this matter.

6 b) No further cause for disciplinary action against the Real Estate licenses of Respondent
7 occurs within two (2) years from the effective date of the decision in this matter.

8 c) If Respondent fails to pay the monetary penalty as provided above prior to the effective
9 date of this Order, the stay of the suspension shall be vacated as to that Respondent and
10 the order of suspension shall be immediately executed, under this Order, in which event
11 the said Respondent shall not be entitled to any repayment nor credit, prorated or
12 otherwise, for the money paid to the Department under the terms of this Order.

13 d) If Respondent pays the monetary penalty and any other moneys due under this Stipulation
14 and Agreement and if no further cause for disciplinary action against the real estate
15 license of said Respondent occurs within two (2) years from the effective date of this
16 Order, the entire stay hereby granted this Order, as to said Respondent only, shall become
17 permanent.

18 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms
19 and conditions:

20 a) Respondent shall obey all laws, rules and regulations governing the rights, duties and
21 responsibilities of a real estate licensee in the State of California; and,

22 b) That no final subsequent determination be made, after hearing or upon stipulation, that
23 cause for disciplinary action occurred within two (2) years from the effective date of this
24 Order. Should such a determination be made, the Commissioner may, in his discretion,
25 vacate and set aside the stay order and reimpose all or a portion of the stayed suspension.
26 Should no such determination be made, the stay imposed herein shall become permanent.

27 3) Respondent shall not solicit for or originate mortgage loans until Respondent obtains a

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mortgage loan originator endorsement.

- 4) All licenses and licensing rights of Respondent are indefinitely suspended unless or until Respondent pays the sum of \$1,255.50 for the Commissioner's reasonable cost of the investigation and enforcement which led to this disciplinary action. Said payment shall be in the form of a cashier's check or certified check made payable to the Real Estate Fund.
- 5) Respondent shall pay the sum of \$2,052.00 for the Commissioner's cost of the audit which led to this disciplinary action. Respondent shall pay such cost within sixty (60) days of receiving an invoice from the Commissioner. The Commissioner may suspend Respondent's license pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between the Respondent and the Commissioner. The suspension shall remain in effect until payment is made in full or until Respondent enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.
- 6) Respondent shall, within six (6) months from the effective date of this Decision, take and pass the Professional Responsibility Examination 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 the license until Respondent passes the examination.

19-June-13

DATED



TRULY SUGHRUE
Counsel for Complainant

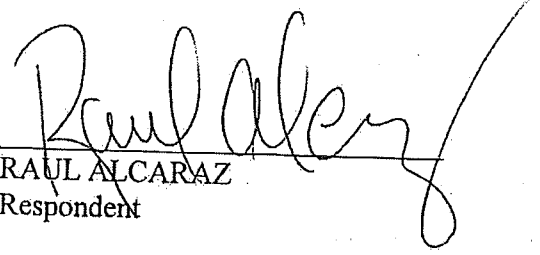
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I have read the Stipulation and Agreement, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act, and I willingly, intelligently and voluntarily waive those rights, including the right of requiring the Commissioner to prove the allegations in the Accusations 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.

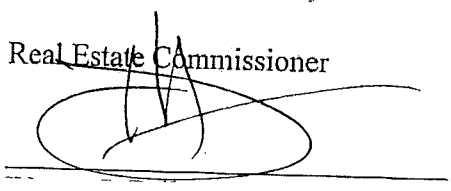
6/20/13

DATED


RAUL ALCARAZ
Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on SEP 16 2013

IT IS SO ORDERED July 29, 2013

Real Estate Commissioner


By: JEFFREY MASON
Chief Deputy Commissioner