

1 Bureau of Real Estate
2 320 West Fourth Street, #350
3 Los Angeles, California 90013
4
5 (213) 576-6982
6
7

FILED

FEB 12 2015

BUREAU OF REAL ESTATE

By *[Signature]*

8 BEFORE THE BUREAU OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-39466 LA
12)
13 MARIO ALBERTO MARISCAL,)
14) Respondent.)
15) STIPULATION AND AGREEMENT

16 It is hereby stipulated by and between MARIO ALBERTO MARISCAL
17 (hereinafter "Respondent") and his attorney, Frank M. Buda and the Complainant, acting by and
18 through Julie L. To, Counsel for the Bureau of Real Estate, as follows for the purpose of settling
19 and disposing of the Accusation filed on May 23, 2014 in Case No. H-39466 LA, in this matter:

20
21 I. All issues which were to be contested and all evidence which was to be
22 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
23 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),
24 shall instead and in place thereof be submitted solely on the basis of the provisions of this
25 Stipulation and Agreement.
26

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

4 3. On June 10, 2014, Respondent filed a Notice of Defense pursuant to Section
5 11506 of the Government Code for the purpose of requesting a hearing on the allegations in the
6 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
7 Respondent acknowledges that he understands that by withdrawing said Notice of Defense he
8 will thereby waive his right to require the Commissioner to prove the allegations in the
9 Accusation at a contested hearing held in accordance with the provisions of the APA and that he
10 will waive other rights afforded to him in connection with the hearing such as the right to
11 present evidence in defense of the allegations in the Accusation and the right to cross-examine
12 witnesses.
13

14 4. Respondent, pursuant to the limitations set forth below, hereby admits that the
15 factual allegations of the Accusation filed in this proceeding are true and correct and the Real
16 Estate Commissioner shall not be required to provide further evidence of such allegations.
17

18 5. Respondent understands that by agreeing to this Stipulation and Agreement,
19 Respondent agrees to pay, pursuant to Section 10106 of the California Business and Professions
20 Code (Code), the cost of the investigation and enforcement which resulted in the determination
21 that Respondent committed the violations found in the Determination of Issues. The amount of
22 said costs is \$1,018.50.
23

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

1 sanctions on Respondent's real estate license and license rights as set forth in the below
2 "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and
3 Agreement, it shall be void and of no effect, and Respondent shall retain the right to a hearing
4 and proceeding on the Accusation under all the provisions of the APA and shall not be bound by
5 any admission or waiver made herein.

6 7. The Order or any subsequent Order of the Real Estate Commissioner made
7 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any
8 further administrative or civil proceedings by the Bureau of Real Estate with respect to any
9 matters which were not specifically alleged to be causes for accusation in this proceeding.
10

11 DETERMINATION OF ISSUES

12 By reason of the foregoing stipulations, admissions and waivers and solely for
13 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
14 agreed that the following determination of issues shall be made:
15

16 The conduct of Respondent, as set forth in the Accusation constitutes grounds for
17 suspension or revocation of Respondent's real estate salesperson license under the provisions of
18 Sections 490 and 10177(b) of the Business and Professions Code.
19

20 ORDER

21 WHEREFORE, THE FOLLOWING ORDER is hereby made:

22 All licenses and licensing rights of Respondent MARIO ALBERTO MARISCAL
23 under the Real Estate Law are revoked; provided, however, a restricted real estate salesperson
24 license shall be issued to Respondent pursuant to Section 10156.5 of the Business and
25 Professions Code if Respondent makes application therefor and pays to the Bureau of Real
26

1 Estate the appropriate fee for the restricted license within 90 days from the effective date of this
2 Decision. The restricted license issued to Respondent shall be subject to all of the provisions of
3 Section 10156.7 of the Business and Professions Code and to the following limitations,
4 conditions and restrictions imposed under authority of that Code:

5 1. The restricted license issued to Respondent may be suspended prior to hearing
6 by Order of the Real Estate Commissioner in the event of Respondent's conviction or plea of
7 nolo contendere to a crime which is substantially related to Respondent's fitness or capacity as a
8 real estate licensee.
9

10 2. The restricted license issued to Respondent may be suspended prior to hearing
11 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that
12 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
13 Law, Regulations of the Real Estate Commissioner, or conditions attaching to this restricted
14 license.
15

16 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
17 real estate license nor for the removal of any of the conditions, limitations or restrictions
18 of a restricted license until four (4) years have elapsed from the date of issuance of the restricted
19 license to Respondent.
20

21 4. Respondent shall submit with any application for license under an employing
22 broker, or any application for transfer to a new employing broker, a statement signed by the
23 prospective employing broker on a form approved by the Bureau of Real Estate which shall
24 certify:
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1 (a) That the employing broker has read the Decision of the Commissioner which
2 granted the right to a restricted license; and

3 (b) That the employing broker will exercise close supervision over the
4 performance by the restricted licensee relating to activities for which a real estate license
5 is required.

6 5. Respondent shall, within nine months from the effective date of this Decision,
7
8 present evidence satisfactory to the Real Estate Commissioner that Respondent has, since the
9 most recent issuance of an original or renewal real estate license, taken and successfully
10 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate
11 Law for renewal of a real estate license. If Respondent fails to satisfy this condition, the
12 Commissioner may order the suspension of the restricted license until the Respondent presents
13 such evidence. The Commissioner shall afford Respondent the opportunity for a hearing
14 pursuant to the Administrative Procedure Act to present such evidence.
15

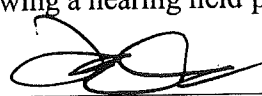
16 6. Respondent shall notify the Commissioner in writing within 72 hours of any
17 arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, P.O. Box
18 137013, Sacramento, CA 95813-7013. The letter shall set forth the date of Respondent's arrest,
19 the crime for which Respondent was arrested and the name and address of the arresting law
20 enforcement agency. Respondent's failure to timely file written notice shall constitute an
21 independent violation of the terms of the restricted license and shall be grounds for the
22 suspension or revocation of that license.

23 7. Respondent shall, prior to the issuance of the restricted license and as a
24 condition of the issuance of said restricted license, pay the sum of \$1,018.50 for the
25 Commissioner's reasonable cost of the investigation and enforcement which led to this
26

1 disciplinary action. Said payment shall be in the form of a cashier's check made payable to the
2 Bureau of Real Estate. The investigative and enforcement costs must be delivered to the Bureau
3 of Real Estate, Flag Section, at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the
4 effective date of this Order.

5 (a) If Respondent MARIO ALBERTO MARISCAL fails to satisfy this condition,
6 the Commissioner shall order the suspension of the restricted license until the Respondent
7 presents evidence of payment. The Commissioner shall afford Respondent the opportunity for a
8 hearing pursuant to the Administrative Procedure Act to present such evidence that payment was
9 timely made. The suspension shall remain in effect until payment is made in full or until a
10 decision providing otherwise is adopted following a hearing held pursuant to this condition.

11 DATED: 12-15-14


12 Julie L. To, Counsel for Complainant

13 * * *

14 I have read the Stipulation and Agreement, have discussed it with my counsel,
15 and its terms are understood by me and are agreeable and acceptable to me. I understand that I
16 am waiving rights given to me by the California Administrative Procedure Act (including, but
17 not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and I willingly,
18 intelligently and voluntarily waive those rights, including the right of requiring the
19 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
20 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
21 the charges.
22

23 Respondent can signify acceptance and approval of the terms and conditions of
24 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by
25
26

1 Respondent, to the Bureau at fax number (213) 576-6917. Respondent agrees, acknowledges
 2 and understands that by electronically sending to the Bureau a fax copy of his actual signature as
 3 it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall
 4 be as binding on Respondent as if the Bureau had received the original signed Stipulation and
 5 Agreement.

6 DATED: 12/15/14

7 MARIO ALBERTO MARISCAL, Respondent

8 * * *

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

11 DATED: 12-15-14

12 Frank M. Buda, Attorney for Respondent

13 * * *

14 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
 15 this matter and shall become effective at 12 o'clock noon on _____
 16

17 IT IS SO ORDERED _____

18 REAL ESTATE COMMISSIONER
 19 _____
 20
 21
 22
 23
 24
 25
 26
 27

1 Respondent, to the Bureau at fax number (213) 576-6917. Respondent agrees, acknowledges
2 and understands that by electronically sending to the Bureau a fax copy of his actual signature as
3 it appears on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall
4 be as binding on Respondent as if the Bureau had received the original signed Stipulation and
5 Agreement.

6 DATED: _____

7 _____
8 MARIO ALBERTO MARISCAL, Respondent

9 * * *

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

12 DATED: _____

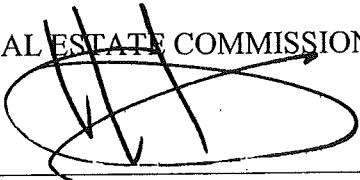
13 _____
14 Frank M. Buda, Attorney for Respondent

15 * * *

16 The foregoing Stipulation and Agreement is hereby adopted as my Decision in
17 this matter and shall become effective at 12 o'clock noon on MAR 04 2015.

18 IT IS SO ORDERED JAN 21 2015

19 REAL ESTATE COMMISSIONER

20 
21 _____
22 By: JEFFREY MASON
23 Chief Deputy Commissioner