

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007

4 Telephone: (916) 227-0789

FILED

OCT 18 2013

BUREAU OF REAL ESTATE

By *L. Lust*

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)	
)	NO. H-4221 SD
12 SPRINTER REALTY GROUP, INC.)	
13 and JAMES A. TALLMAN,)	<u>STIPULATION AND AGREEMENT</u>
)	
14 Respondents.)	
)	

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16 It is hereby stipulated by and between Respondents SPRINTER REALTY GROUP,
17 INC., and JAMES A. TALLMAN, (collectively "Respondents"), acting by and through Nasir N.
18 Pasha, Esq., Counsel for Respondents, and the Complainant, acting by and through Annette E.
19 Ferrante, Esq., Counsel for the Department of Real Estate ("Department"), as follows for the
20 purpose of settling and disposing of the Accusation filed on August 15, 2011, in this matter:

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

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1 2. Respondents have received, read and understand the Statement to
2 Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department
3 in this proceeding.

4 3. Respondents filed a Notice of Defense pursuant to Section 11505 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents
7 acknowledge that Respondents understand that by withdrawing said Notice of Defense,
8 Respondents will thereby waive Respondents' right to require the Real Estate Commissioner
9 ("Commissioner") to prove the allegations in the Accusation at a contested hearing held in
10 accordance with the provisions of the APA and that Respondents will waive other rights
11 afforded to Respondents in connection with the hearing such as the right to present evidence in
12 defense of the allegations in the Accusation and the right to cross-examine witnesses.

13 4. This Stipulation is based on the factual allegations contained in the
14 Accusation. In the interest of expedience and economy, Respondents choose not to contest these
15 factual allegations, but to remain silent and understand that, as a result thereof, these factual
16 statements will serve as a prima facie basis for the "Determination of Issues" and "Order" set
17 forth below. The Commissioner shall not be required to provide further evidence to prove such
18 allegations.

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

23 6. It is understood by the parties that the Commissioner may adopt the
24 Stipulation and Agreement as his decision in this matter, thereby imposing the penalty and
25 sanctions on Respondents' real estate licenses and license rights as set forth in the "Order"
26 below. In the event that the Commissioner in his discretion does not adopt the Stipulation and

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1 Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing
2 and proceeding on the Accusation under all of the provisions of the APA and shall not be bound
3 by any admission or waiver made herein.

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

8 8. Respondents understand that by agreeing to this Stipulation and
9 Agreement, Respondents agree to pay, pursuant to Section 10148 of the California Business
10 and Professions Code (“the Code”), the costs of the audit which resulted in the determination
11 that Respondents committed the trust fund violation(s) found in the Determination of Issues.
12 The amount of such costs is \$4,721.00.

13 9. Respondents further understand that by agreeing to this Stipulation and
14 Agreement, the findings set forth below in the Determination of Issues become final, and that
15 the Commissioner may charge said Respondents for the costs of any audit conducted pursuant
16 to Section 10148 of the Code to determine if the violations have been corrected. The
17 maximum costs of said audit shall not exceed \$4,721.00.

18 10. Respondents understand that by agreeing to this Stipulation and
19 Agreement, Respondents agree to pay, pursuant to Section 10106 of the Code, the costs of the
20 investigation and enforcement of this case which resulted in the determination that
21 Respondents committed the violation(s) found in the Determination of Issues. The amount of
22 such cost is \$523.44.

23 11. In lieu of proceeding in this matter in accordance with the provisions of
24 the APA, Respondent SPRINTER REALTY GROUP, INC. (“SRGI”) wishes to voluntarily
25 surrender its corporate real estate broker license issued by the Department, pursuant to Code
26 Section 10100.2. Respondent JAMES A. TALLMAN (“TALLMAN”) is an officer of

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1 Respondent SRGI, and is authorized to sign this declaration on behalf of Respondent SRGI.
2 Respondent TALLMAN is represented by attorney Nasir N. Pasha, Esq., and is acting on
3 behalf of Respondent SRGI.

4 12. Respondent TALLMAN understands that by so voluntarily surrendering
5 Respondent SRGI's license, Respondent SRGI may be relicensed as a broker corporation only
6 by petitioning for reinstatement pursuant to Section 11522 of the Government Code.
7 Respondent TALLMAN also understands that by so voluntarily surrendering Respondent
8 SRGI's license, Respondents agree to the following:

9 a. The filing of this Stipulation and Agreement shall be deemed as
10 Respondent SRGI's declaration and petition for voluntary surrender.

11 b. It shall also be deemed to be an understanding and agreement by
12 Respondent SRGI that it waives all rights Respondent SRGI has to require the Commissioner to
13 prove the allegations contained in the Accusation filed in this matter at a hearing held in
14 accordance with the provisions of the APA, and that Respondent SRGI also waives other rights
15 afforded to Respondent SRGI in connection with the hearing such as the right to discovery, the
16 right to present evidence in defense of the allegations in the Accusation and the right to cross-
17 examine witnesses.

18 13. Respondent TALLMAN on behalf of Respondent SRGI further agrees
19 that upon acceptance by the Commissioner, as evidenced by an appropriate order, all affidavits
20 and all relevant evidence obtained by the Department in this matter prior to the Commissioner's
21 acceptance, and all allegations contained in the Accusation filed in the Department Case No. H-
22 4221 SD, may be considered by the Department to be true and correct for the purpose of
23 deciding whether to grant relicensure or reinstatement to Respondent SRGI pursuant to
24 Government Code Section 11522.

25 14. Respondent TALLMAN on behalf of Respondent SRGI freely and
26 voluntarily surrenders all of Respondent SRGI's licenses and license rights under the Real
27 Estate Law.

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DETERMINATION OF ISSUES

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

I.

The acts and omissions of Respondent SRGI, as described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent SRGI under the provisions of Sections 10085, 10085.5, 10085.6, 10140.6, 10145, 10146, 10177(d), 10177(g), 10240(a), and 10241 of the Code, Section 2944.7 of the California Civil Code, and Sections 2831, 2831.1, 2831.2, 2832, 2834, 2970, and 2972 of Title 10 of the California Code of Regulations (“the Regulations”).

II.

The acts and omissions of Respondent TALLMAN as described in the Accusation are grounds for the suspension or revocation of the licenses and license rights of Respondent TALLMAN under the provisions of Sections 10159.2, 10177(d), 10177(g), and 10177(h) of the Code, and Section 2725 of Title 10 of the Regulations.

ORDER

I.

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

1. Ninety (90) days of said suspension shall be stayed for two (2) years upon the following terms and conditions:

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

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

7 2. Respondent TALLMAN shall, within six (6) months from the effective
8 date of this Order, take and pass the Professional Responsibility Examination administered by
9 the Department, including the payment of the appropriate examination fee. If Respondent
10 TALLMAN fails to satisfy this condition, the Commissioner may order the suspension of all
11 licenses and licensing rights of Respondent TALLMAN until he passes the examination.

12 3. Respondent TALLMAN shall pay the sum of \$4,721.00 for the
13 Commissioner's cost of the audit which led to this disciplinary action. Respondent
14 TALLMAN shall pay such cost within sixty (60) days of receiving an invoice therefore from
15 the Commissioner. The Commissioner may indefinitely suspend all licenses and licensing
16 right of Respondent TALLMAN pending a hearing held in accordance with Section 11500, et
17 seq., of the Government Code, if payment is not timely made as provided for herein, or as
18 provided for in a subsequent agreement between Respondent TALLMAN and the
19 Commissioner. The suspension shall remain in effect until payment is made in full or until
20 Respondent TALLMAN enters into an agreement satisfactory to the Commissioner to provide
21 for payment, or until a decision providing otherwise is adopted following a hearing held
22 pursuant to this condition.

23 4. Respondent TALLMAN shall pay the Commissioner's costs, not to
24 exceed \$4,721.00, of any audit conducted pursuant to Section 10148 of the Code to determine
25 if Respondent TALLMAN has corrected the violations described in the Determination of
26 Issues, above, and any other violations found in the audit which led to this disciplinary action.

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1 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use
2 the estimated average hourly salary for all persons performing audits of real estate brokers, and
3 shall include an allocation for travel time to and from the auditor's place of work. Respondent
4 TALLMAN shall pay such cost within sixty (60) days of receiving an invoice therefore from
5 the Commissioner detailing the activities performed during the audit and the amount of time
6 spent performing those activities. If Respondent TALLMAN fails to pay such cost within the
7 sixty (60) days, the Commissioner may indefinitely suspend all licenses and licensing rights of
8 Respondent TALLMAN under the Real Estate Law until payment is made in full or until
9 Respondent TALLMAN enters into an agreement satisfactory to the Commissioner to provide
10 for payment. Upon full payment, the indefinite suspension provided for in this paragraph shall
11 be stayed.

12 5. All licenses and licensing rights of Respondent TALLMAN are
13 indefinitely suspended unless or until Respondent TALLMAN pays the sum of \$523.44 for the
14 Commissioner's reasonable cost of the investigation and enforcement which led to this
15 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
16 made payable to the Real Estate Fund.

17 II.

18 Respondent SRGI's petition for voluntary surrender of its corporate real estate broker
19 license and license rights is accepted as of the effective date of this Order as set forth below,
20 based upon the understanding and agreement expressed in Respondents' Declaration
21 incorporated herein as part of this Stipulation and Agreement. Respondent SRGI's license

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1 certificates, pocket cards, and any branch office license certificates shall be sent to the below
2 listed address so that they reach the Department on or before the effective date of this Order:

3 DEPARTMENT OF REAL ESTATE
4 Attn: Licensing Flag Section
5 P. O. Box 187000
6 Sacramento, CA 95818-7000

7 10-18-12

8 DATED



9 Annette E. Ferrante, Counsel
10 Department of Real Estate
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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 (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. Respondents can signify acceptance and approval of the terms and conditions of this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by Respondents, to the Department at fax number (916) 227-9458. Respondents agree, acknowledge and understand that by electronically sending to the Department a fax copy of Respondents' actual signatures as they appear on the Stipulation and Agreement, that receipt of the faxed copy by the Department shall be as binding on Respondents as if the Department had received the original signed Stipulation and Agreement.

10/12/2012
DATED



JAMES A. TALLMAN,
Respondent

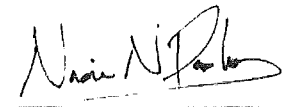
10/12/2012
DATED



JAMES A. TALLMAN,
As Designated Officer of Respondent
SPRINTER REALTY GROUP, INC.

I have reviewed this Stipulation and Agreement and Order as to form and content and have advised my clients accordingly.

10/12/2012
DATED



Nasir N. Pasha, Esq.,
Attorney for Respondents
SPRINTER REALTY GROUP, INC. and
JAMES A. TALLMAN

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The foregoing Stipulation and Agreement is hereby adopted by me as my Decision in
this matter as to Respondents SPRINTER REALTY GROUP, INC. and JAMES A.
TALLMAN, and shall become effective at 12 o'clock noon on
NOV 06 2013.

IT IS SO ORDERED 12/6/2012.

REAL ESTATE COMMISSIONER



By WAYNE S. BELL
Chief Counsel