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

OCT 30 2013
BUREAU OF REAL ESTATE
By L. Jones

BEFORE THE DEPARTMENT OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	DRE No. H-4383 SD
)	
KOOM-BY-YAW, INC. and)	<u>STIPULATION AND AGREEMENT</u>
STEVEN FREDERICK RING,)	<u>IN SETTLEMENT AND ORDER</u>
)	
Respondents.)	

is hereby stipulated by and between KOOM-BY-YAW, INC. (KBY), and STEVEN FREDERIC RING (RING), (Collectively Respondents) and their counsel, Robert Muir, and the Complainant, acting by and through Richard K. Uno, Counsel for the Department of Real Estate; as follows for the purpose of settling and disposing of the Accusation filed on July 19, 2012, in this matter:

- All issues which were to be contested and all evidence which was to be presented by Complainant and Respondents at a formal hearing on the Accusation, which hearing was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"), shall instead and in place thereof be submitted solely on the basis of the provisions of this Stipulation and Agreement In Settlement and Order.
- Respondents have received, read and understand the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Department

1 of Real Estate in this proceeding.

2 3. On July 27, 2012, Respondents filed a Notice of Defense pursuant to Section
3 11505 of the Government Code for the purpose of requesting a hearing on the allegations in the
4 Accusation. Respondents hereby freely and voluntarily withdraw said Notice of Defense.
5 Respondents acknowledge that they understands that by withdrawing said Notice of Defense
6 they will thereby waive their rights to require the Commissioner to prove the allegations in the
7 Accusation at a contested hearing held in accordance with the provisions of the APA and that
8 they will waive other rights afforded to them in connection with the hearing such as the right to
9 present evidence in defense of the allegations in the Accusation and the right to cross-examine
10 witnesses.

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

17 5. It is understood by the parties that the Real Estate Commissioner may adopt
18 the Stipulation and Agreement In Settlement and Order as his Decision in this matter, thereby
19 imposing the penalties and sanctions on Respondent's real estate licenses and license rights as
20 set forth in the below "Order". In the event that the Commissioner in his discretion does not
21 adopt the Stipulation and Agreement In Settlement and Order, it shall be void and of no effect,
22 and Respondent shall retain the right to a hearing and proceeding on the Accusation under all
23 the provisions of the APA and shall not be bound by any admission or waiver made herein.

24 6. The Order or any subsequent Order of the Real Estate Commissioner made
25 pursuant to this Stipulation and Agreement In Settlement and Order shall not constitute an
26 estoppel, merger or bar to any further administrative or civil proceedings by the Department of
27

1 Real Estate with respect to any matters which were not specifically alleged to be causes for
2 accusation in this proceeding.

3 7. RING understands that by agreeing to this Stipulation and Agreement In
4 Settlement and Order, Respondent agrees to pay, pursuant to Section 10148 of the Business and
5 Professions Code (Code), the cost of the audit which led to this disciplinary action. The
6 amount of said cost is \$6,473.04.

7 8. RING has received, read and understands the "Notice Concerning Costs of
8 Subsequent Audits". RING understands that by agreeing to this Stipulation and Agreement in
9 Settlement and Order, the findings set forth below in the DETERMINATION OF ISSUES
10 become final, and that the Commissioner may charge RING for the cost of any audit conducted
11 pursuant to Section 10148 of the Code to determine if the violations have been corrected. The
12 maximum costs of said audit will not exceed \$6,473.04.

13
14 DETERMINATION OF ISSUES

15 By reason of the foregoing stipulations, admissions and waivers, and solely for
16 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
17 agreed that the acts and/or omissions of Respondents, as described in the Accusation, constitute
18 grounds for the suspension or revocation of the licenses and license rights of KOOM-BY-
19 YAW, INC. under the provisions of Sections 10145 and 10177(g) of the Business of
20 Professions Code (the Code) and constitute grounds for the suspension or revocation of the
21 licenses and license rights of STEVEN FREDERICK RING under the provisions of Section
22 10159.2 of the Code.

23 ORDER

24 KOOM-BY-YAW, INC.

25 1. The real estate broker license and license rights of KBY under the Real
26 Estate Law are suspended for a period of sixty (60) days from the effective date of this Order;
27 provided, however, that:

1 a) KBY shall obey all laws, rules and regulations governing the rights, duties
2 and responsibilities of a real estate licensee in the State of California; and,

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

9 STEVEN FREDERICK RING

10 The real estate broker license and license rights of RING, under the Real Estate
11 Law are suspended for a period of sixty (60) days from the effective date of this Order;
12 provided, however, that:

13 a) RING shall obey all laws, rules and regulations governing the rights, duties
14 and responsibilities of a real estate licensee in the State of California; and,

15 b) That no final subsequent determination be made, after hearing or upon
16 stipulation that cause for disciplinary action occurred within one (1) years from the effective
17 date of this Order. Should such a determination be made, the Commissioner may, in his
18 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
19 suspension. Should no such determination be made, the stay imposed herein shall become
20 permanent.

21 2. Pursuant to Section 10148 of the Business and Professions Code, RING shall
22 pay for: a) the Commissioner's reasonable cost of the audit which led to this disciplinary
23 action in the amount of \$6,473.04 and b) a subsequent audit to determine if RING has
24 corrected the trust fund violations found in the Determination of Issues in an amount that shall
25 be no more than \$6,473.04. In calculating the amount of the Commissioner's reasonable cost,
26 the Commissioner may use the estimated average hourly salary for all persons performing
27 audits of real estate brokers, and shall include an allocation for travel costs, including mileage,

1 time to and from the auditor's place of work and per diem. RING shall pay such cost within
 2 sixty (60) days of receiving an invoice from the Commissioner detailing the activities
 3 performed during the audit and the amount of time spent performing those activities. The
 4 Commissioner may, in his discretion, vacate and set aside the stay order, if payment is not
 5 timely made as provided for herein, or as provided for in a subsequent agreement between the
 6 RING and the Commissioner. The vacation and the set aside of the stay shall remain in effect
 7 until payment is made in full, or until RING enter into an agreement satisfactory to the
 8 Commissioner to provide for payment. Should no order vacating the stay be issued, either in
 9 accordance with this condition, the stay imposed herein shall become permanent.

10 3. All licenses and licensing rights of RING are indefinitely suspended until
 11 Ring provides proof satisfactory to the Commissioner, of having taken and successfully
 12 completed the continuing education course on trust fund accounting and handling specified in
 13 paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code.
 14 Proof of satisfaction of this requirement includes evidence that RING has successfully
 15 completed the trust fund account and handling continuing education course within 120 days
 16 prior to the effective date of the Decision in this matter.

17
 18
 19 7/11/13
 20 DATED

Richard K. Uno
 21 RICHARD K. UNO, Counsel III
 22 DEPARTMENT OF REAL ESTATE

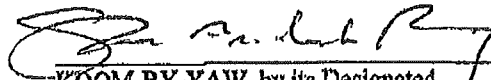
23 * * *

24 I have read the Stipulation and Agreement in Settlement and Order and its terms
 25 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
 26 rights given to me by the California Administrative Procedure Act (including but not limited to
 27 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

1 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
2 right to cross-examine witnesses against me and to present evidence in defense and mitigation
3 of the charges.

4
5 7-8-13

6 DATED



7 KOOM-BY-YAW, by its Designated
8 Officer STEVEN FREDERICK RING,
9 Respondent

10 7-8-13

11 DATED



12 STEVEN FREDERICK RING,
13 Respondent

14 ***

15 *I have reviewed this Stipulation and Agreement as to form and content and have
16 advised my client accordingly.*

17 July 9, 2013

18 DATED



19 ROBERT E. MUIR
20 Attorney for Respondents

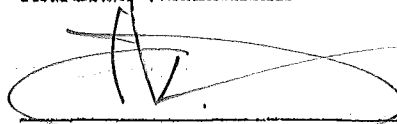
21 The foregoing Stipulation and Agreement is hereby adopted by the Real Estate
22 Commissioner under Decision and Order and shall become effective at 12 o'clock noon on

23 NOV 19 2013

24 OCT 25 2013

25 IT IS SO ORDERED

26 WAYNE S. BELL
27 Real Estate Commissioner



By: JEFFREY MASON
Chief Deputy Commissioner