

1 Bureau of Real Estate
2 320 West 4th Street, Ste. 350
3 Los Angeles, California 90013-1105
4 Telephone: (213) 576-6982

FILED

MAR 10 2014

BUREAU OF REAL ESTATE

By *J. Lennan*

8 BEFORE THE BUREAU OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 JEFFREY GILBERT BETTGER,)
13 doing business as Bettger Properties,)
14 and Bettger Properties Inc.,)
15 Respondent,)

No. H-04458 SD
L-2013031067

STIPULATION
AND
AGREEMENT

16 It is hereby stipulated by and between Respondent JEFFREY GILBERT
17 BETTGER, (sometimes referred to as "Respondent"), represented by Nicole Tee-Irmer, Esq., and
18 the Complainant, acting by and through Elliott Mac Lennan, Counsel for the Bureau of Real
19 Estate, as follows for the purpose of settling and disposing of the Accusation ("Accusation") filed
20 on February 14, 2013, in this matter:

22 1. All issues which were to be contested and all evidence which was to be
23 presented by Complainant and Respondent at a formal hearing on the Accusation, which hearing
24 was to be held in accordance with the provisions of the Administrative Procedure Act ("APA"),
25 shall instead and in place thereof be submitted solely on the basis of the provisions of this
26 Stipulation and Agreement ("Stipulation.")
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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. Respondent timely filed a Notice of Defense pursuant to Section 11506 of the
5 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.
6 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
7 acknowledges that he understands that by withdrawing said Notice of Defense he thereby waives
8 his right to require the Commissioner to prove the allegations in the Accusation at a contested
9 hearing held in accordance with the provisions of the APA and that he will waive other rights
10 afforded to him in connection with the hearing such as the right to present evidence in his
11 defense the right to cross-examine witnesses.
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13 4. This Stipulation is based on the factual allegations contained in the Accusation.
14 In the interest of expedience and economy, Respondent chooses not to contest these allegations,
15 but to remain silent and understands that, as a result thereof, these factual allegations, without
16 being admitted or denied, will serve as a prima facie basis for the disciplinary action stipulated to
17 herein. The Real Estate Commissioner shall not be required to provide further evidence to prove
18 said factual allegations.
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20 5. This Stipulation is made for the purpose of reaching an agreed disposition of
21 this proceeding and is expressly limited to this proceeding and any other proceeding or case in
22 which the Bureau of Real Estate ("Bureau"), the state or federal government, or any agency of
23 this state, another state or federal government is involved, and otherwise shall not be admissible
24 in any other criminal or civil proceedings.
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1 6. It is understood by the parties that the Real Estate Commissioner may adopt
2 this Stipulation as his Decision in this matter thereby imposing the penalty and sanctions on
3 Respondent's real estate license and license rights as set forth in the "Order" herein below. In the
4 event that the Commissioner in his discretion does not adopt the Stipulation, it shall be void and
5 of no effect and Respondent shall retain the right to a hearing and proceeding on the Accusation
6 under the provisions of the APA and shall not be bound by any stipulation or waiver made
7 herein.
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9 7. The Order or any subsequent Order of the Real Estate Commissioner made
10 pursuant to this Stipulation shall not constitute an estoppel, merger or bar to any further
11 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters
12 which were not specifically alleged to be causes for Accusation in this proceeding but do
13 constitute a bar, estoppel and merger as to any allegations actually contained in the Accusations
14 against Respondent herein.
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16 8. Respondent understands that by agreeing to this Stipulation, Respondent agrees
17 to pay, pursuant to Business and Professions Code Section 10148, the cost of the audit (SD
18 120002) is \$7,019.86.
19

20 9. Respondent has received, read, and understands the "Notice Concerning Costs
21 of Subsequent Audit." Respondent further understands that by agreeing to this Stipulation, the
22 findings set forth below in the Determination of Issues become final, and the Commissioner may
23 charge Respondent for the cost of any subsequent audit conducted pursuant to Business and
24 Professions Code Section 10148 to determine if the violations have been corrected. The
25 maximum cost of the follow-up audit will not exceed \$7,019.86.
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1 (A) Makes application thereof and pays to the Bureau of Real Estate the
2 appropriate fee for the restricted license within ninety (90) days from the effective date of this
3 Decision.

4 (B) Respondent shall, prior to and as a condition of the issuance of the restricted
5 license, submit proof satisfactory to the Commissioner of having taken and successfully
6 completed the continuing education course on trust fund accounting and handling specified in
7 paragraph (3) of subdivision (a) of Section 10170.5 of the Business and Professions Code. Proof
8 of satisfaction of this requirement includes evidence that Respondent has successfully completed
9 the trust fund account and handling continuing education course within 120 days prior to the
10 effective date of the Decision in this matter.

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

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

18 2. The restricted license issued to Respondent may be suspended prior to hearing
19 by Order of the Real Estate Commissioner on evidence satisfactory to the Commissioner that a
20 Respondent has violated provisions of the California Real Estate Law, the Subdivided Lands
21 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted
22 license.

23 3. Respondent shall not be eligible to apply for the issuance of an unrestricted
24 real estate license nor for the removal of any of the conditions, limitations or restrictions of a
25 restricted license until two (2) years have elapsed from the effective date of this Decision.

26 4. Respondent shall within six (6) months from the effective date of the restricted
27 license, take and pass the Professional Responsibility Examination administered by the Bureau

1 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
2 condition, the Commissioner may order suspension of the restricted license until respondent
3 passes the examination.

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

12 II.

13 Pursuant to Section 10148 of the Business and Professions Code Respondent
14 JEFFREY GILBERT BETTGER shall pay the Commissioner's reasonable cost for (a) the audit
15 which led to this disciplinary action and (b) a subsequent audit to determine if said Respondent
16 is now in compliance with the Real Estate Law. The cost of the audit which led to this
17 disciplinary action is \$7,019.86. In calculating the amount of the Commissioner's reasonable
18 cost, the Commissioner may use the estimated average hourly salary for all persons performing
19 audits of real estate brokers, and shall include an allocation for travel time to and from the
20 auditor's place of work. Said amount for the prior and subsequent audits shall not exceed
21 \$14,039.72.

22 Respondent JEFFREY GILBERT BETTGER shall pay such cost within 60 days
23 of receiving an invoice from the Commissioner detailing the activities performed during the
24 audit and the amount of time spent performing those activities.

25 The Commissioner may suspend the license of said Respondents pending a hearing held
26 in accordance with Section 11500, et seq., of the Government Code, if payment is not timely
27 made as provided for herein, or as provided for in a subsequent agreement between said

1 Respondents and the Commissioner. The suspension shall remain in effect until payment is
2 made in full or until a Respondent enters into an agreement satisfactory to the Commissioner to
3 provide for payment, or until a decision providing otherwise is adopted following a hearing
4 held pursuant to this condition.

5 III.

6 Pursuant to Section 10106 of the Business and Professions Code, Respondent
7 shall pay the Commissioner's reasonable cost for the investigation and enforcement costs which
8 led to this disciplinary action. The cost of the investigation and enforcement which led to this
9 disciplinary action is \$3,243.19. In calculating the amount of the Commissioner's reasonable
10 cost, the Commissioner may use the estimated average hourly salary for all persons performing
11 investigation and enforcement of real estate brokers, and shall include an allocation for travel
12 time to and from the special investigator and/or attorney's place of work. Respondent shall pay
13 such cost within 60 days of receiving an invoice from the Commissioner detailing the activities
14 performed during the investigation and enforcement and the amount of time spent performing
15 those activities. If Respondent fails to satisfy this condition, the Commissioner may order the
16 suspension of Respondent's license until Respondent presents evidence of payment. The
17 Commissioner shall afford Respondent the opportunity for a hearing pursuant to the
18 Administrative Procedure Act to present such evidence.

19 III.

20 All licenses and licensing rights of Respondent are indefinitely suspended unless
21 or until Respondent provides proof satisfactory to the Commissioner that the trust fund shortage
22 of \$61,665.07 set forth in the Accusation has been restored, including the identification of the
23 source of funds used to restore the shortage.
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IV.

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2 Prior to the effective date of the Decision in this matter, Respondents shall
3 provide evidence satisfactory to the Real Estate Commissioner that Respondent has:

4 (1) Designated all bank accounts into which trust funds are deposited as trust
5 accounts;

6 (2) Properly bonded or removed signatory Griselda Diaz on trust account TA 1;

7 and

8 (3) Registered all fictitious business names with the Bureau.

9 VI.

10 All proof required by this Order, shall be sent to the attention of Elliott Mac
11 Lennan, Counsel, Legal Section, Bureau of Real Estate, 320 W. Fourth St., Suite 350, Los
12 Angeles, California 90013-1105.

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14
15 DATED: 1-6-14

15 EML
16 ELLIOTT MAC LENNAN, Counsel for
17 Bureau of Real Estate

18 EXECUTION OF THE STIPULATION

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

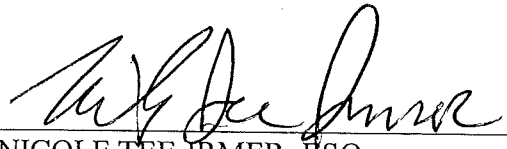
2 Respondent (1) shall mail the original signed signature page of the stipulation
3 herein to Elliott Mac Lennan: Attention: Legal Section, Bureau of Real Estate, 320 W. Fourth
4 St., Suite 350, Los Angeles, California 90013-1105. Additionally, Respondent (2) shall also
5 facsimile a copy of signed signature page, to the Bureau at the following fax number: (213) 576-
6 6917, Attention: Elliott Mac Lennan.

7 A facsimile constitutes acceptance and approval of the terms and conditions of
8 this stipulation. Respondent agrees, acknowledges and understands that by electronically sending
9 to the Bureau a facsimile copy of Respondent's actual signature as it appears on the stipulation
10 that receipt of the facsimile copy by the Bureau shall be as binding on Respondent as if the
11 Bureau had received the original signed stipulation.

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14 DATED: 1-3-2014


JEFFREY GILBERT BETINGER, Respondent

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16 DATED: 1-3-2014


NICOLE TEE-IRMER, ESQ.
Attorney for Respondent

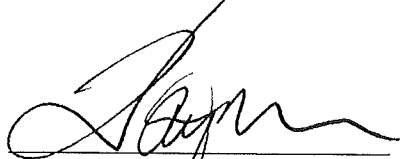
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The foregoing Stipulation and Agreement is hereby adopted as my Decision as to
Respondent JEFFREY GILBERT BETTGER and shall become effective at 12 o'clock noon on
APR 01 2014, 2014.

IT IS SO ORDERED 2/24, 2014.

Real Estate Commissioner


WAYNE S. BELL