

FILED

OCT 22 2013

BUREAU OF REAL ESTATE

By Norma Jimenez

Bureau of Real Estate
320 West Fourth Street, #350
Los Angeles, California 90013

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

* * *

In the Matter of the Accusation of)
)
)
 DANIEL J. SEKELY,)
)
 Respondent.)
)
)
)
)

DRE No. H-04476 SD
OAH No. 2013060030

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between DANIEL J. SEKELY ("Respondent") who is representing himself in this matter and the Complainant, acting by and through Lissete Garcia, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the Accusation in this matter, filed on March 22, 2013:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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

1 the basis of the provisions of this Stipulation and Agreement
2 ("Stipulation").

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

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

17 4. This Stipulation is based on the factual allegations
18 contained in the Accusation. In the interest of expedience and
19 economy, Respondent chooses not to contest these allegations, but to
20 remain silent and understands that, as a result thereof, these
21 factual allegations, without being admitted or denied, will serve as
22 a prima facie basis for the disciplinary action stipulated to
23 herein. The Real Estate Commissioner shall not be required to
24 provide further evidence to prove said factual allegations.

25 5. This Stipulation is based on Respondent's decision not
26 to contest the allegations set forth in the Accusation as a result
27 of the agreement negotiated between the parties. This Stipulation

1 is expressly limited to this proceeding and any further proceeding
2 initiated by or brought before the Bureau of Real Estate based upon
3 the factual allegations in the Accusation and is made for the sole
4 purpose of reaching an agreed disposition of this proceeding. The
5 decision of Respondent not to contest the allegations contained in
6 the "Order" herein below, is made solely for the purpose of
7 effectuating this Stipulation. It is the intent and understanding
8 of the parties that this Stipulation shall not be binding or
9 admissible against Respondent in any action against Respondent by
10 third parties.

11 6. It is understood by the parties that the Real Estate
12 Commissioner may adopt the Stipulation as his Decision in this
13 matter thereby imposing the penalty and sanctions on Respondent's
14 real estate license and license rights as set forth in the "Order"
15 herein below. In the event that the Commissioner in his discretion
16 does not adopt the Stipulation, it shall be void and of no effect,
17 and Respondent shall retain the right to a hearing and proceeding on
18 the Accusation under the provisions of the APA and shall not be
19 bound by any admission or waiver made herein.

20 7. The Order or any subsequent Order of the Real Estate
21 Commissioner made pursuant to this Stipulation shall not constitute
22 an estoppel, merger or bar to any further administrative or civil
23 proceedings by the Bureau of Real Estate with respect to any matters
24 which were not specifically alleged to be causes for accusation in
25 this proceeding.

26 ///

27 ///

1 and restrictions imposed under authority of Section 10156.6 of that
2 Code:

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

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

14 3. Respondent shall not be eligible for the issuance of
15 an unrestricted real estate license nor for the removal of any of
16 the conditions, limitations or restrictions of a restricted license
17 until at least three (3) years have elapsed from the effective date
18 of this Decision.

19 4. Respondent shall submit with any application for
20 license under an employing broker, or any application for transfer
21 to a new employing broker, a statement signed by the prospective
22 employing real estate broker on a form approved by the Bureau of
23 Real Estate which shall certify:

24 (a) That the employing broker has read the Decision of the
25 Commissioner which granted the right to a restricted license; and
26
27

1 III.

2 Respondent shall, prior to the issuance of the restricted
3 license and as a condition of the issuance of said restricted
4 license, submit proof satisfactory to the Commissioner of payment of
5 restitution as follows:

6 1) \$1,262.10 to Bill and Marion J.;

7 2) \$185 to Acela A.;

8 3) \$185 to Cathlina C.;

9 4) \$185 to Myra N.; and

10 5) \$185 to Max C.

11 a) Respondent shall deliver or mail the restitution
12 payment, by certified mail, return receipt requested, to the above-
13 named individuals' last address on file with or known to Respondent.

14 b) If the payment is returned by the Post Office marked
15 "unable to deliver," Respondent shall employ a locator service (that
16 may include or be limited to the Internet or other database
17 retrieval search) to try and locate the individuals. Repayment
18 shall then be made to the addresses recommended by the locator
19 service.

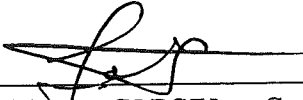
20 c) If unable to effect repayment after using a locator
21 service, Respondent shall provide reasonable proof satisfactory to
22 the Commissioner of his efforts to comply with the provisions of
23 this Paragraph. If the Commissioner determines that proof to be
24 unsatisfactory, he shall so advise Respondent, and indicate what
25 additional reasonable efforts should be made to make repayment to
26 the above-named individuals.

1 providing otherwise is adopted following a hearing held pursuant
2 to this condition.

3 VI.

4 A copy of all proofs of payment and completed coursework
5 shall be submitted to Bureau Counsel Lissete Garcia, Attention:
6 Legal Section, Bureau of Real Estate, 320 W. Fourth St., Suite 350,
7 Los Angeles, California 90013-1105, on or before the dates set forth
8 above.

9
10 DATED: 9/10/2013


11 LISSETE GARCIA, Counsel for the
12 Bureau of Real Estate

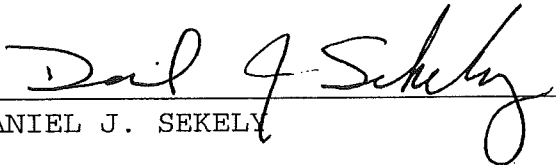
13 EXECUTION OF THE STIPULATION

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

24 Respondent can signify acceptance and approval of the
25 terms and conditions of this Stipulation by faxing a copy of the
26 signature page, as actually signed by Respondents, to the Bureau at
27 the following telephone/fax number: Lissete Garcia at (213) 576-

1 6917. Respondent agrees, acknowledges and understands that by
2 electronically sending to the Bureau a fax copy of Respondent's
3 actual signature as it appears on the Stipulation, that receipt of
4 the faxed copy by the Bureau shall be as binding on Respondent as if
5 the Bureau had received the original signed Stipulation.

6
7 DATED: 9-3-2013


8 DANIEL J. SEKELY

9 ***

10
11 The foregoing Stipulation and Agreement is hereby adopted
12 as my Decision as to Respondent DANIEL J. SEKELY and shall become
13 effective at 12 o'clock noon on NOV 12 2013, 2013.

14
15 IT IS SO ORDERED SEPTEMBER 19, 2013.

16 REAL ESTATE COMMISSIONER

17
18 
19

20 By: JEFFREY MASON
21 Chief Deputy Commissioner
22
23
24
25
26
27