

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

4 Telephone: (916) 227-0789

FILED

AUG 11 2011

DEPARTMENT OF REAL ESTATE
By R. Mar

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7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) NO. H-5515 SAC
13 PHILIP J. MESUNAS,) STIPULATION AND AGREEMENT
14)
15 Respondent.)

16 It is hereby stipulated by and between Respondent PHILIP J. MESUNAS
17 ("Respondent"), acting by and through David A. Boucher, Counsel for Respondent, and the
18 Complainant, acting by and through John W. Barron, Counsel for the Department of Real
19 Estate, as follows for the purpose of settling and disposing of the Accusation filed on
20 December 2, 2010, in this matter:

21 1. 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
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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H-5515 SAC

PHILIP J. MESUNAS

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

4 3. On December 20, 2010, Respondent filed a Notice of Defense pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the
6 allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice
7 of Defense. Respondent acknowledges that Respondent understands that by withdrawing said
8 Notice of Defense, Respondent will thereby waive Respondent's right to require the
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 Respondent will waive other rights
11 afforded to Respondent 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, Respondent chooses not to contest
15 these factual allegations, but to remain silent and understands that, as a result thereof, these
16 factual statements will serve as a prima facie basis for the "Determination of Issues" and
17 "Order" set forth below. The Real Estate Commissioner shall not be required to provide further
18 evidence to prove such allegations.

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

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

1 c. If Respondent fails to pay the monetary penalty in accordance with the
2 terms and conditions of the Decision, the Commissioner may, without a hearing, order the
3 immediate execution of all or any part of the stayed suspension, in which event, Respondent
4 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the
5 Department under the terms of this decision.

6 d. If Respondent pays the monetary penalty and if no further cause for
7 disciplinary action against the real estate license of Respondent occurs within two (2) years
8 from the effective date of the Decision herein, then the stay hereby granted shall become
9 permanent.

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

15 3. Notwithstanding any other provision of this Order, all licenses and
16 licensing rights of Respondent are suspended unless and until he provides proof satisfactory to
17 the Commissioner that he has taken and successfully completed the continuing education
18 course on Trust Fund Accounting and Handling specified in Section 10170.5(a)(3) of the Code.
19 The course must have been completed no earlier than one hundred twenty (120) days prior to
20 the effective date of this Order, and proof must be submitted prior to the effective date of this
21 Order, to prevent suspension of Respondent's license pursuant to this condition.

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1 4. Notwithstanding any other provision of this Order, Respondents shall
 2 voluntarily surrender the corporate real estate broker license and any and all license rights of
 3 CPL Ventures, Inc., as a condition of this Stipulation. Said voluntary surrender must be
 4 delivered to the Department prior to the effective date of the Decision in this matter.

5
6 7/19/11

7 DATED


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 11 JOHN W. BARRON, Counsel
 12 Department of Real Estate

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

21 7/6/11

22 DATED

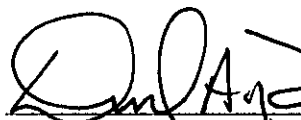
23 
 24 PHILIP J. MESUNAS
 25 Respondent

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

 7-6-11

 DATED

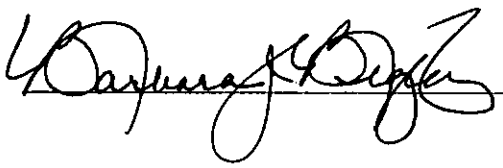

 DAVID A. BOUCHER
 Attorney for Respondent

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The foregoing Stipulation and Agreement is hereby adopted by me as my
Decision in this matter as to Respondent PHILIP J. MESUNAS and shall become effective at
12 o'clock noon on SEP 1 2011.

IT IS SO ORDERED 8/5/11

BARBARA J. BIGBY
Acting Real Estate Commissioner



1 JOHN W. BARRON, Counsel (SBN 171246)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 (916) 227-0792 (Direct)

FILED
DEC - 2 2010
DEPARTMENT OF REAL ESTATE
By K. Mar

7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 ***

11 In the Matter of the Accusation of)
12) No. H-5515 SAC
13 PHILIP J. MESUNAS,)
14) ACCUSATION
15 Respondent.)

16 The Complainant, TRICIA D. SOMMERS, a Deputy Real Estate Commissioner
17 of the State of California, for cause of Accusation against PHILIP J. MESUNAS (hereafter
18 "Respondent"), is informed and alleges as follows:

19 1

20 The Complainant makes this Accusation in her official capacity.

21 2

22 Respondent is presently licensed and/or has license rights under the Real Estate
23 Law, Part of Division 4 of the Business and Professions Code (hereafter "the Code") as a real
24 estate broker. At all times mentioned herein, Respondent was licensed by the Department as the
25 designated broker/officer of CPL VENTURES, INC. (hereafter "CPL"). As the designated
26 broker/officer, Respondent was responsible, pursuant to Section 10159.2 of the Code, for the

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1 supervision of the activities of the officers, agents, real estate licensees and employees of CPL
2 for which a real estate license is required.

3 3

4 On or about March 13, 2010, Respondent, acting on behalf of CPL, and acting as
5 an agent for Feras Jowaniyah and Shannon Ellis-Jowaniyah, presented an offer to purchase real
6 property owned by the United States Secretary of Veterans Affairs and located at 2418 Westville
7 Trail, Cool, California. The offer prepared by Respondent represented that Feras Jowaniyah and
8 Shannon Ellis-Jowaniyah had provided Respondent with a \$2,500 earnest money deposit as part
9 of the purchase price. The true facts were that the earnest money deposit of \$2,500 from Feras
10 Jowaniyah and Shannon Ellis-Jowaniyah was not received by Respondent until March 30, 2010.
11 Such acts and/or omissions by Respondent violate Sections 10159.2 (responsibility of designated
12 broker/officer for supervision and control of licensed activity), 10176(a) (making substantial
13 misrepresentation), 10177(d) (willful disregard of real estate law), 10177(g) (negligence or
14 incompetence in performance of act for which license is required), 10177(h) (exercise of
15 reasonable supervision by broker) and 10177(j) (other conduct which constitutes fraud or
16 dishonest dealing) of the Code, and Section 2725 (reasonable supervision by broker) of Title 10,
17 Chapter 6, California Code of Regulations (hereafter "the Regulations").

18 4

19 The acts and/or omissions of Respondent described in Paragraph 3, above, violate
20 Sections 10159.2, 10176(a), 10177(d), 10177(g), 10177(h) and 10177(j) of the Code, and
21 Section 2725 of the Regulations.

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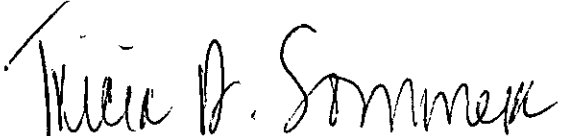
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WHEREFORE, Complainant prays that a hearing be conducted on the allegations of this Accusation and that upon proof thereof, a decision be rendered imposing disciplinary action against all licenses and license rights of Respondent under the Code, and for such other and further relief as may be proper under the provisions of law.



TRICIA D. SOMMERS
Deputy Real Estate Commissioner

Dated at Sacramento, California,
this 30th day of November, 2010.