

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

FILED

FEB 12 2013

4 Telephone: (916) 227-0789  
5 -or- (916) 227-0780 (Direct)  
6 -or- (916) 227-9458 (Fax)

DEPARTMENT OF REAL ESTATE

By K. Contreras

7  
8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of )

12 CAROLINE V. CRUZ, )

13 Respondent. )

NO. H-5797 SAC

STIPULATION AND AGREEMENT  
IN SETTLEMENT AND ORDER

14 It is hereby stipulated by and between CAROLINE V. CRUZ (herein the  
15 "Respondent") and the Complainant, acting by and through Mary F. Clarke, Counsel for the  
16 Department of Real Estate (herein the "Department"), as follows for the purpose of settling and  
17 disposing of the Accusation filed on March 28, 2012, in this matter:

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

23 2. Respondent has received, read and understands the Statement to Respondent,  
24 the Discovery Provisions of the APA, and the Accusation filed by the Department in this  
25 proceeding.

26 3. A Notice of Defense was filed on April 4, 2012, by Respondent pursuant to  
27 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations

1 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.  
2 Respondent acknowledges she understands that by withdrawing said Notice of Defense she will  
3 thereby waive her right to require the Real Estate Commissioner (herein the "Commissioner")  
4 to prove the allegations in the Accusation at a contested hearing held in accordance with the  
5 provisions of the APA and that she will waive other rights afforded to her in connection with the  
6 hearing such as the right to present evidence in defense of the allegations in the Accusation and  
7 the right to cross-examine witnesses.

8           4. Respondent, pursuant to the limitations set forth below, hereby admits that  
9 the factual allegations pertaining to her in the Accusation filed in this proceeding are true and  
10 correct, and the Commissioner shall not be required to provide further evidence of such  
11 allegations.

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

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

24           7. Respondent understands that by agreeing to this Stipulation and Agreement  
25 in Settlement and Order, Respondent agrees to pay, pursuant to Section 10106(a) of the Business  
26 and Professions Code (herein "the Code"), investigative and enforcement costs which led to this  
27 disciplinary action. The amount of said cost is \$1,179.20.

1 DETERMINATION OF ISSUES

2 The acts and omissions of Respondent as described in the Accusation are grounds  
3 for the suspension or revocation of the licenses and license rights of Respondent under the  
4 following provisions of the Code, and/or Chapter 6, Title 10, of the California Code of  
5 Regulations (herein "the Regulations"):

- 6 (a) as to Paragraphs 5 and 6, under Sections 10130, 10131.2, 10137, and  
7 10085.6 of the Code, in conjunction with Section 10177(d) of the  
8 Code; and  
9 (b) as to Paragraph 7, under Section 10146 of the Code and Section 2972  
10 of the Regulations, in conjunction with Section 10177(d) of the Code.

11 ORDER

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

- 15 1. Sixty (60) days of said suspension shall be stayed for two (2) years upon the  
16 following terms and conditions:  
17 (a) Respondent shall obey all laws, rules and regulations governing the  
18 rights, duties and responsibilities of a real estate licensee in the State  
19 of California; and,  
20 (b) That no final subsequent determination be made, after hearing or  
21 upon stipulation, that cause for disciplinary action occurred within  
22 two (2) years from the effective date of this Order. Should such a  
23 determination be made, the Commissioner may, in his discretion,  
24 vacate and set aside the stay order and reimpose all or a portion of the  
25 stayed suspension. Should no such determination be made, the stay  
26 imposed herein shall become permanent.  
27

1                   2. The remaining thirty (30) days of said 90-day suspension shall be stayed  
2                   upon the condition that Respondent petition pursuant to Section 10175.2 of  
3                   the Code and pay a monetary penalty pursuant to Section 10175.2 of the  
4                   Code at a rate of \$33.33 for each day of the suspension for a total monetary  
5                   penalty of \$1,000.00:

6                   (a) Said payment shall be in the form of a cashier's check or certified  
7                   check made payable to the Recovery Account of the Real Estate Fund.  
8                   Said check must be received by the Department prior to the effective  
9                   date of the Order in this matter.

10                  (b) No further cause for disciplinary action against the real estate licenses  
11                  of Respondent occurs within two (2) years from the effective date of  
12                  the Decision in this matter.

13                  (c) If Respondent fails to pay the monetary penalty as provided above  
14                  prior to the effective date of this Order, the stay of the suspension  
15                  shall be vacated as to Respondent and the order of suspension shall be  
16                  immediately executed, under this Order, in which event Respondent  
17                  shall not be entitled to any repayment nor credit, prorated or  
18                  otherwise, for the money paid to the Department under the terms of  
19                  this Order.

20                  (d) If Respondent pays the monetary penalty and any other moneys due  
21                  under this Stipulation and Agreement in Settlement and Order and if  
22                  no further cause for disciplinary action against the real estate license  
23                  of Respondent occurs within two (2) years from the effective date of  
24                  this Order, the entire stay hereby granted under this Order shall  
25                  become permanent.

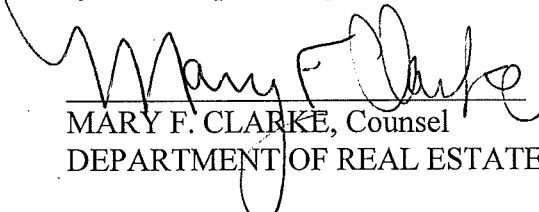
26                  3. Respondent shall pay the sum of \$1,179.20 for the Commissioner's cost,  
27                  pursuant to Section 10106(a) of the Code, of the investigation and

1 enforcement which led to this disciplinary action. Said payment shall be in  
2 the form of a cashier's check or certified check made payable to the Real  
3 Estate Fund. Said check must be received by the Department prior to the  
4 effective date of the Order in this matter. If Respondent fails to satisfy this  
5 condition, the stay of the suspension shall be vacated and the order of  
6 suspension shall be immediately executed indefinitely until payment is  
7 made in full.

8 4. Respondent shall, within six (6) months from the effective date of the  
9 Order, take and pass the Professional Responsibility Examination  
10 administered by the Department, including the payment of the appropriate  
11 examination fee. If Respondent fails to satisfy this condition, the stay of  
12 the suspension shall be vacated and the order of suspension shall be  
13 immediately executed indefinitely until Respondent passes the examination.

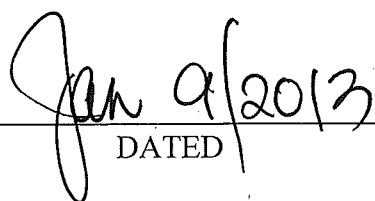
14 1-17-13

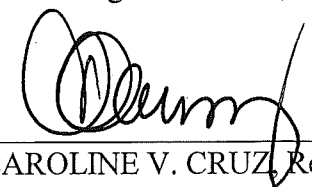
15 \_\_\_\_\_  
DATED

15   
16 MARY F. CLARKE, Counsel  
DEPARTMENT OF REAL ESTATE

17 \* \* \*

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

25   
26 \_\_\_\_\_  
27 DATED

25   
26 \_\_\_\_\_  
27 CAROLINE V. CRUZ, Respondent

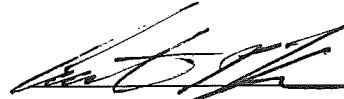
1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27

\*\*\*

The foregoing Stipulation and Agreement in Settlement and Order is hereby  
adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on  
March 4, 2013.

IT IS SO ORDERED 2/6/13

Real Estate Commissioner



By AWET P. KIDANE  
Chief Deputy Commissioner