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BUREAU OF REAL ESTATE
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DEC 30 2013

BUREAU OF REAL ESTATE

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By J. Jones

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)	DRE No. H-5895 SAC
)	
TIMOTHY JAY LEINGANG,)	
)	<u>STIPULATION AND AGREEMENT</u>
)	<u>IN SETTLEMENT AND ORDER</u>
Respondent.)	
)	

It is hereby stipulated by and between TIMOTHY JAY LEINGANG (Respondent), his counsel, Heather Barnes, and the Complainant, acting by and through Richard K. Uno, Counsel for the Bureau of Real Estate, as follows for the purpose of settling and disposing of the First Amended Accusation filed on November 2, 2012, in this matter:

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 the basis of the provisions of this Stipulation and Agreement In Settlement and Order.

2. Respondent has received, read and understands the Statement to Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau of Real

1 Estate in this proceeding.

2 3. On or about October 29, 2012, Respondent filed a Notice of Defense
3 pursuant to Section 11505 of the Government Code for the purpose of requesting a hearing on
4 the allegations in the Accusation. Respondent hereby freely and voluntarily withdraws said
5 Notice of Defense. Respondent acknowledges that he understands that by withdrawing said
6 Notice of Defense he will thereby waive his right to require the Commissioner to prove the
7 allegations in the Accusation at a contested hearing held in accordance with the provisions of the
8 APA and that he will waive other rights afforded to him in connection with the hearing such as
9 the right to present evidence in defense of the allegations in the Accusation and the right to cross-
10 examine witnesses.

11 4. This stipulation is based on the factual allegations contained in the Accusation.
12 In the interest of expediency and economy, Respondent 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
18 adopt the Stipulation and Agreement In Settlement and Order as his Decision in this matter,
19 thereby imposing the penalty and sanctions on Respondent's real estate licenses and license
20 rights as set forth in the below "Order". In the event that the Commissioner in his discretion
21 does not adopt the Stipulation and Agreement In Settlement and Order, it shall be void and of no
22 effect, and Respondent shall retain the rights to a hearing and proceeding on the Accusation
23 under all the provisions of the APA and shall not be bound by any admission or waiver made
24 herein.

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

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

3 7. Respondent understands that by agreeing to this Stipulation and
4 Agreement, Respondent agrees to pay, pursuant to Section 10106 of the Code, the cost of the
5 investigation and enforcement which resulted in the determination that Respondent committed
6 the violations found in the Determination of Issues. The amount of said costs is \$3,910.90.

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations, admissions and waivers, and solely for
9 the purpose of settlement of the pending Accusation without a hearing, it is stipulated and
10 agreed that the acts and/or omissions of Respondent, as described in the Accusation, constitute
11 grounds for the suspension or revocation of the licenses and license rights of Respondent under
12 the provisions of Section 10177(g) of the Code and constitute grounds for the suspension or
13 revocation of the licenses and license rights of Respondent.

14 ORDER

15 1. The corporate real estate broker license and license rights of Respondent
16 under the Real Estate Law are suspended for a period of sixty (60) days from the effective date
17 of this Order; provided, however, that if Respondent petitions, said suspension shall be stayed
18 upon condition that:

19 a. Respondent pays a monetary penalty pursuant to Section 10175.2
20 of the Code at the rate of \$100.00 per day for twenty (20) days of the suspension for a total
21 monetary penalty of \$2,000.00.

22 b. Said payment shall be in the form of a cashier's check or certified
23 check made payable to the Consumer Recovery Account of the Real Estate Fund. Said check
24 must be received by the Bureau prior to the effective date of the Decision in this matter.

25 c. No further cause for disciplinary action against the real estate
26 license of Respondent occurs within two (2) years from the effective date of the Decision in this
27 matter.

1 d. If Respondent fails to pay the monetary penalty in accordance
2 with the terms and conditions of the Decision, the Commissioner may, without a hearing, order
3 the 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 Bureau under the terms of this Decision.

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

9 2. The remaining forty (40) days of said suspension shall be stayed for two
10 (2) years upon the following terms and conditions:

11 a. Respondent shall obey all laws, rules and regulations governing the
12 rights, duties and responsibilities of a real estate licensee in the State of California; and;

13 b. That no final subsequent determination be made, after hearing or
14 upon stipulation, that cause for disciplinary action occurred within two (2) years from the
15 effective date of this Order. Should such a determination be made, the Commissioner may, in his
16 discretion, vacate and set aside the stay order and reimpose all or a portion of the stayed
17 suspension.

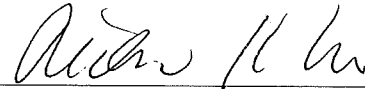
18 3. All licenses and licensing rights of Respondent are indefinitely suspended
19 unless or until Respondent pays the sum of \$3,910.90 for the Commissioner's reasonable cost of
20 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
21 the form of a cashier's check or certified check made payable to the Real Estate Fund.

22 4. Respondent shall, within six (6) months from the effective date of this
23 Decision, take and pass the Professional Responsibility Examination administered by the Bureau
24 including the payment of the appropriate examination fee. If Respondent fails to satisfy this
25 condition, the Commissioner may order suspension of Respondent's license until
26
27

1 Respondent passes the examination.
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3
4

5 12/13/13

6 DATED

7 

8 RICHARD K. UNO, Counsel
9 BUREAU OF REAL ESTATE

10 * * *

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

19 11/22/13

20 DATED

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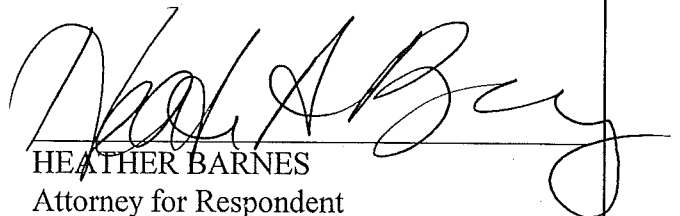
22 TIMOTHY JAY LEINGANG

23 * * *

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

26 12/3/13

27 DATED



HEATHER BARNES
Attorney for Respondent

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The foregoing Stipulation and Agreement In Settlement and Order is hereby
adopted by the Real Estate Commissioner as his Decision and Order and shall become effective
at 12 o'clock noon on JAN 20 2014.

IT IS SO ORDERED DEC 23 2013

REAL ESTATE COMMISSIONER



By: JEFFREY MASON
Chief Deputy Commissioner