

1 Bureau of Real Estate  
2 P.O. Box 137007  
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8672

**FILED**

JAN 09 2017

BUREAU OF REAL ESTATE

By B. Nicholas

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

10 \* \* \*

11 In the Matter of the Accusation of )

12 SEQUOIA PACIFIC LENDING INC., )  
13 DAVID LEE SIMAS, and CRUZ )  
14 MORALES, )

15 Respondents. )

No. H-6391 SAC

STIPULATION AND  
AGREEMENT

16 It is hereby stipulated by and between SEQUOIA PACIFIC LENDING INC.  
17 (SEQUOIA), DAVID LEE SIMAS (SIMAS), and CRUZ MORALES (MORALES) (collectively  
18 referred to as "Respondents"), represented by Richard C. Conway, and the Complainant, acting  
19 by and through Truly Sughirue, Counsel for the Bureau of Real Estate (Bureau), as follows for the  
20 purpose of settling and disposing the Accusation filed on April 26, 2016, in this matter:

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

26 2. Respondents have received, read, and understand the Statement to  
27 Respondent, and the Discovery Provisions of the APA filed by the Bureau in this proceeding.

1                   3.       Respondents filed a Notice of Defense pursuant to Section 11505 of the  
2 Government Code for the purpose of requesting a hearing on the allegations in the Accusation.  
3 Respondents hereby freely and voluntarily withdraw said Notice of Defense. Respondents  
4 acknowledge that Respondents understand that by withdrawing said Notice of Defense  
5 Respondents will thereby waive Respondents' rights to require the Real Estate Commissioner  
6 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in  
7 accordance with the provisions of the APA, and that Respondents will waive other rights  
8 afforded to Respondents in connection with the hearing such as the right to present evidence in  
9 defense of the allegations in the Accusation and the right to cross-examine witnesses.

10                   4.       This Stipulation and Agreement is based on the factual allegations  
11 contained in the Accusation. In the interest of expediency and economy, Respondents choose not  
12 to contest these factual allegations, but to remain silent and understand that, as a result thereof,  
13 these factual statements will serve as a prima facie basis for the "Determination of Issues" and  
14 "Order" set forth below. The Commissioner shall not be required to provide further evidence to  
15 prove such allegations.

16                   5.       This Stipulation and Agreement and Respondents' decision not to contest  
17 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and  
18 are expressly limited to this proceeding and any other proceeding or case in which the Bureau,  
19 the state or federal government, an agency of this state, or an agency of another state is involved.

20                   6.       Respondents understand that by agreeing to this Stipulation and Agreement,  
21 Respondents agree to pay, pursuant to Section 10106 of the Business and Professions Code  
22 (Code), the cost of the investigation and enforcement which resulted in the determination that  
23 Respondent committed the violation(s) found in the Determination of Issues. The amount of said  
24 costs is \$1,500.00.

25                   7.       It is understood by the parties that the Commissioner may adopt the  
26 Stipulation and Agreement as his Decision and Order in this matter thereby imposing the penalty  
27 and sanctions on the real estate licenses and license rights of Respondents as set forth in the







1           1. The restricted license issued to SIMAS may be suspended prior to hearing  
2 by Order of the Commissioner in the event of SIMAS' conviction or plea of nolo contendere to a  
3 crime which is substantially related to SIMAS's fitness or capacity as a real estate licensee.

4           2. The restricted license issued to SIMAS may be suspended prior to hearing  
5 by Order of the Commissioner on evidence satisfactory to the Commissioner that SIMAS has  
6 violated provisions of the California Real Estate Law, the Subdivided Lands Law, Regulations of  
7 the Commissioner, or conditions attaching to the restricted license.

8           3. SIMAS shall not be eligible to petition for the issuance of any unrestricted  
9 real estate license nor for removal of any of the conditions, limitations or restrictions of a  
10 restricted license until two (2) years have elapsed from the effective date of this Decision and  
11 Order. SIMAS shall not be eligible to apply for any unrestricted licenses until all restrictions  
12 attaching to the license have been removed.

13           4. SIMAS shall, within nine (9) months from the effective date of this  
14 Decision and Order, present evidence satisfactory to the Commissioner that SIMAS has, since  
15 the most recent issuance of an original or renewal real estate license, taken and successfully  
16 completed the continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate  
17 Law for renewal of a real estate license. If SIMAS fails to satisfy this condition, SIMAS's real  
18 estate license shall automatically be suspended until SIMAS presents evidence satisfactory to the  
19 Commissioner of having taken and successfully completed the continuing education  
20 requirements. Proof of completion of the continuing education courses must be delivered to the  
21 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.

22           5. All licenses and licensing rights of SIMAS are indefinitely suspended  
23 unless or until SIMAS provides proof satisfactory to the Commissioner, of having taken and  
24 successfully completed the continuing education course on trust fund accounting and handling  
25 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of  
26 satisfaction of this requirement includes evidence that SIMAS has successfully completed the  
27 trust fund accounting and handling continuing education course, no earlier than 120 days prior to

1 the effective date of the Decision and Order in this matter. Proof of completion of the trust fund  
2 accounting and handling course must be delivered to the Bureau of Real Estate, Flag Section at  
3 P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758, prior to the effective  
4 date of this Decision Order.

5 6. SIMAS shall, within six (6) months from the effective date of this  
6 Decision and Order, take and pass the Professional Responsibility Examination administered by  
7 the Bureau including the payment of the appropriate examination fee. If SIMAS fails to satisfy  
8 this condition, SIMAS's real estate license shall automatically be suspended until Respondent  
9 passes the examination.

### 10 III

11 All licenses and licensing rights of Respondent MORALES under the Real Estate  
12 Law are revoked; provided, however, a restricted real estate salesperson license shall be issued to  
13 MORALES pursuant to Section 10156.5 of the Code if MORALES makes application therefor  
14 and pays to the Bureau the appropriate fee for the restricted license within 90 days from the  
15 effective date of this Decision and Order. The restricted license issued to MORALES shall be  
16 subject to all of the provisions of Section 10156.7 of the Code and to the following limitations,  
17 conditions and restrictions imposed under authority of Section 10156.6 of that Code:

18 1. The restricted license issued to MORALES may be suspended prior to  
19 hearing by Order of the Commissioner in the event of MORALES' conviction or plea of nolo  
20 contendere to a crime which is substantially related to MORALES' fitness or capacity as a real  
21 estate licensee.

22 2. The restricted license issued to MORALES may be suspended prior to  
23 hearing by Order of the Commissioner on evidence satisfactory to the Commissioner that  
24 MORALES has violated provisions of the California Real Estate Law, the Subdivided Lands  
25 Law, Regulations of the Real Estate Commissioner or conditions attaching to the restricted  
26 license.

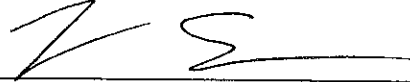




1 enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box  
2 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

3  
4 28-Dec-17

5 DATED



6 TRULY SUGHRUE  
7 Counsel for Complainant

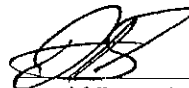
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9 I have read the Stipulation and Agreement, discussed it with my counsel, and its  
10 terms are understood by me and are agreeable and acceptable to me. I understand that I am  
11 waiving rights given to me by the California Administrative Procedure Act, and I willingly,  
12 intelligently and voluntarily waive those rights, including the right of requiring the  
13 Commissioner to prove the allegations in the First Amended Order to Desist and Refrain at a  
14 hearing at which I would have the right to cross-examine witnesses against me and to present  
15 evidence in defense and mitigation of the charges.

16 Respondent and Respondent's attorney further agree to send the original signed  
17 Stipulation by mail to the following address no later than one (1) week from the date the  
18 Stipulation is signed by Respondent and Respondent's attorney: *Bureau of Real Estate, Legal*  
19 *Section, P.O. Box 137007, Sacramento, California 95813-7007*. Respondent and Respondent's  
20 attorney understand and agree that if they fail to return the original signed Stipulation by the due  
21 date, Complainant retains the right to set this matter for hearing.

22  
23  
24 12-20-16

25 DATED




26 David Lee Simas, on behalf of  
27 SEQUOIA PACIFIC LENDING INC.  
Respondent




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DATED

  
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DAVID LEE SIMAS  
Respondent

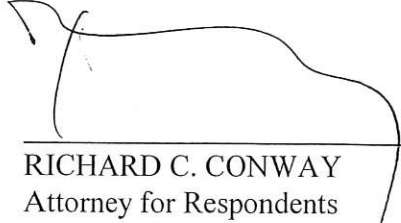
12-20-16  
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DATED

  
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CRUZ MORALES  
Respondent

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*I have reviewed the Stipulation and Agreement as to form and content and have advised my clients accordingly.*


12-20-16  
\_\_\_\_\_  
DATED

  
\_\_\_\_\_  
RICHARD C. CONWAY  
Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and Order and shall become effective at 12 o'clock noon on **JAN 30 2017**

IT IS SO ORDERED 1/4/2017

WAYNE S. BELL  
REAL ESTATE COMMISSIONER  
  
\_\_\_\_\_