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**FILED**

MAR 02 2018

BUREAU OF REAL ESTATE

By B. Nicholas

**BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA**

\* \* \*

In the Matter of the Accusation of:  
  
TIMOTHY FRANCIS WESELY and CARLA  
EILENE MORGAN,  
  
Respondents.

No. H-6560 SAC

STIPULATION AND  
AGREEMENT IN  
SETTLEMENT AND ORDER

It is hereby stipulated by and between TIMOTHY FRANCIS WESELY ("WESELY") and CARLA EILENE MORGAN ("MORGAN") (collectively "Respondents") and their attorney, Frank M. Buda, and the Complainant, acting by and through Adriana Z. Badilas, Counsel for the Bureau of Real Estate ("Bureau"), as follows for the purpose of settling and disposing of the Accusation filed on August 31, 2017, in this matter:

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

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1                   2.       **Respondents have received, read, and understand the Statement to**  
2 **Respondent, the Discovery Provisions of the APA and the Accusation filed by the Bureau in this**  
3 **proceeding.**

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

12                   4.       **This Stipulation and Agreement and Respondents' decision not to contest**  
13 **the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and**  
14 **are expressly limited to this proceeding and any other proceeding or case in which the Bureau,**  
15 **the state or federal government, an agency of this state, or an agency of another state is involved.**

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

23                   6.       **This Decision and Order or any subsequent Order of the Commissioner**  
24 **made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar**  
25 **to any further administrative or civil proceedings by the Bureau with respect to any matters,**  
26 **which were not specifically alleged in Accusation H-6560 SAC.**

27 **///**

1 DETERMINATION OF ISSUES

2 By reason of the foregoing stipulations, admissions, and waivers and solely for the  
3 purpose of settlement of the pending Accusation without hearing, it is stipulated and agreed that  
4 the following Determination of Issues shall be made:

5 I

6 The acts and/or omissions of WESELY, as described in the Accusation, are  
7 grounds for the suspension or revocation of the licenses and license rights of WESELY under  
8 Business and Professions Code ("Code") Sections 10145, 10159.5, 10177(d), and 10177(g), in  
9 conjunction with California Code of Regulations ("Regulations"), Title 10, Sections 2831 and  
10 2832.

11 II

12 The acts and/or omissions of MORGAN, as described in the Accusation, are  
13 grounds for the suspension or revocation of the licenses and license rights of MORGAN under  
14 Sections 10137, 10159.5, 10163, 10177(d), and 10177(g) of the Code, in conjunction with  
15 Section 2731 of the Regulations.

16 ORDER AS TO WESELY

17 I

18 All licenses and licensing rights of WESELY under the Real Estate Law are  
19 revoked; provided, however, a restricted real estate broker license shall be issued to WESELY  
20 pursuant to Section 10156.5 of the Code if WESELY makes application therefore for the  
21 restricted license within ninety (90) days from the effective date of this Decision and Order. The  
22 restricted license issued to WESELY shall be subject to all of the provisions of Section 10156.7  
23 of the Code and to the following limitations, conditions and restrictions imposed under authority  
24 of Section 10156.6 of that Code:

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

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

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

15                   4. WESELY shall, within six (6) months from the effective date of this  
16 Order, take and pass the Professional Responsibility Examination administered by the Bureau,  
17 including the payment of the appropriate examination fee. If WESELY fails to satisfy this  
18 condition, WESELY's real estate license shall automatically be suspended until WESELY passes  
19 the examination.

20                   5. WESELY shall notify the Commissioner in writing within 72 hours of  
21 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post  
22 Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of  
23 WESELY's arrest, the crime for which WESELY was arrested and the name and address of  
24 the arresting law enforcement agency. WESELY's failure to timely file written notice shall  
25 constitute an independent violation of the terms of the restricted license and shall be grounds  
26 for the suspension or revocation of that license.

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1 II

2 1. All licenses and licensing rights of WESELY are indefinitely suspended  
3 unless or until WESELY, jointly and severally with MORGAN, pays the sum of \$2,388.25 for  
4 the Commissioner's reasonable costs of the investigation and enforcement which led to this  
5 disciplinary action. Said payment shall be in the form of a cashier's check or certified check  
6 made payable to the Bureau. The investigative and enforcement costs must be delivered to the  
7 Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to  
8 the effective date of this Order.

9 2. WESELY, jointly and severally with MORGAN, shall pay the sum of  
10 \$1,496.25 for the Commissioner's cost of the audit which led to this disciplinary action.  
11 WESELY shall pay such cost within sixty (60) days of receiving an invoice therefore from the  
12 Commissioner. The Commissioner shall indefinitely suspend all licenses and licensing rights  
13 of WESELY pending a hearing held in accordance with Section 11500, et seq., of the  
14 Government Code, if payment is not timely made as provided for herein, or as provided for in a  
15 subsequent agreement between Respondents and the Commissioner. The suspension shall  
16 remain in effect until payment is made in full or until WESELY enters into an agreement  
17 satisfactory to the Commissioner to provide for payment, or until a decision providing  
18 otherwise is adopted following a hearing held pursuant to this condition.

19 ORDER AS TO MORGAN

20 I

21 All licenses and licensing rights of MORGAN under the Real Estate Law are  
22 revoked; provided, however, a restricted real estate broker license shall be issued to MORGAN  
23 pursuant to Section 10156.5 of the Code if MORGAN makes application therefore for the  
24 restricted license within ninety (90) days from the effective date of this Decision and Order. The  
25 restricted license issued to MORGAN shall be subject to all of the provisions of Section 10156.7  
26 of the Code and to the following limitations, conditions and restrictions imposed under authority  
27 of Section 10156.6 of that Code:

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

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

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

15                   4. MORGAN shall, within six (6) months from the effective date of this  
16 Order, take and pass the Professional Responsibility Examination administered by the Bureau,  
17 including the payment of the appropriate examination fee. If MORGAN fails to satisfy this  
18 condition, MORGAN's real estate license shall automatically be suspended until MORGAN  
19 passes the examination.

20                   5. MORGAN shall notify the Commissioner in writing within 72 hours of  
21 any arrest by sending a certified letter to the Commissioner at the Bureau of Real Estate, Post  
22 Office Box 137000, Sacramento, CA 95813-7000. The letter shall set forth the date of  
23 MORGAN's arrest, the crime for which MORGAN was arrested and the name and address of  
24 the arresting law enforcement agency. MORGAN's failure to timely file written notice shall  
25 constitute an independent violation of the terms of the restricted license and shall be grounds  
26 for the suspension or revocation of that license.

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II

1. All licenses and licensing rights of MORGAN are indefinitely suspended unless or until MORGAN, jointly and severally with WESELY, pays the sum of \$2,388.25 for the Commissioner's reasonable costs of the investigation and enforcement which led to this disciplinary action. Said payment shall be in the form of a cashier's check or certified check made payable to the Bureau. The investigative and enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Order.

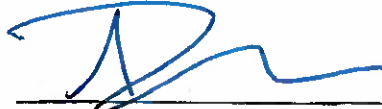
2. MORGAN, jointly and severally with WESELY, shall pay the sum of \$1,496.25 for the Commissioner's cost of the audit which led to this disciplinary action. MORGAN shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. The Commissioner shall indefinitely suspend all licenses and licensing rights of MORGAN pending a hearing held in accordance with Section 11500, et seq., of the Government Code, if payment is not timely made as provided for herein, or as provided for in a subsequent agreement between Respondents and the Commissioner. The suspension shall remain in effect until payment is made in full or until MORGAN enters into an agreement satisfactory to the Commissioner to provide for payment, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

3. Pursuant to Section 10148 of the Code, MORGAN shall pay the Commissioner's reasonable cost, not to exceed \$2,244.38, for an audit to determine if MORGAN has corrected the violation(s) found in audit #SC15-0139. In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the estimated average hourly salary for all persons performing audits of real estate brokers, and shall include an allocation for travel time to and from the auditor's place of work. MORGAN shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of the audit costs should not be made until Respondent receives the invoice. If MORGAN fails to satisfy this condition in a timely manner as provided for herein, MORGAN's real estate

1 license shall automatically be suspended until payment is made in full, or until a decision  
2 providing otherwise is adopted following a hearing held pursuant to this condition.

3  
4 2/21/18

5 DATED



ADRIANA Z. BADILAS, Counsel  
Bureau of Real Estate

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7 \* \* \*

8 I have read the Stipulation and Agreement, have discussed it with my counsel,  
9 and its terms are understood by me and are agreeable and acceptable to me. I understand that I  
10 am waiving rights given to me by the APA (including but not limited to Sections 11506,  
11 11508, 11509, and 11513 of the Government Code), and I willingly, intelligently, and  
12 voluntarily waive those rights, including the right of requiring the Commissioner to prove the  
13 allegations in the Accusation at a hearing at which I would have the right to cross-examine  
14 witnesses against me and to present evidence in defense and mitigation of the charges.

15 Respondents can signify acceptance and approval of the terms and conditions of  
16 this Stipulation and Agreement by faxing a copy of the signature page, as actually signed by  
17 Respondent, to the Bureau at fax number (916) 263-3767 or by e-mail to  
18 adriana.badilas@DRE.ca.gov. Respondents agree, acknowledge, and understand that by  
19 electronically sending to the Bureau a fax copy of Respondents' actual signature as it appears  
20 on the Stipulation and Agreement, that receipt of the faxed copy by the Bureau shall be as  
21 binding on Respondents as if the Bureau had received the original signed Stipulation and  
22 Agreement.

23 2-12-2018

24 DATED



TIMOTHY FRANCIS WESELY  
Respondent

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DATED

CARLA EILENE MORGAN  
Respondent

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

2-14-18

*Frank M. Buda*

DATED

FRANK M. BUDA  
The Law Office of Frank M. Buda  
Attorney for Respondents

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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 \_\_\_\_\_.

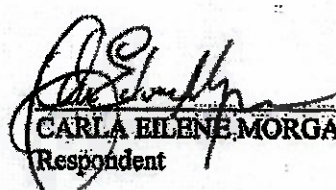
IT IS SO ORDERED 2/28/18.

WAYNE S. BELL  
REAL ESTATE COMMISSIONER

*Wayne S. Bell*

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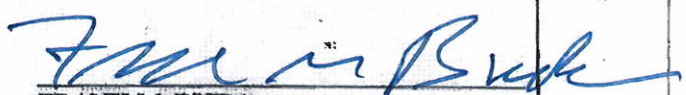
12-19-17  
DATED

  
CARLA EILENE MORGAN  
Respondent

\*\*\*

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

12-20-17  
DATED

  
FRANK M. BUDA  
The Law Office of Frank M. Buda  
Attorney for Respondents

\*\*\*

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 MAR 23 2018

IT IS SO ORDERED 2/28/18

WAYNE S. BELL  
REAL ESTATE COMMISSIONER



By: DANIEL J. SANDRI  
Chief Deputy Commissioner