

1 DEPARTMENT OF REAL ESTATE
2 P. O. Box 187007
3 Sacramento, CA 95818-7007
4
5 Telephone: (916) 227-0789
6
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FILED

MAR 26 2009

DEPARTMENT OF REAL ESTATE

By 

8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)

12 ROBIN PAULA FROST AND)
13 JAMES NICHOLAS KROPA,)

14 Respondents.)

No. H-10492 SF

STIPULATION AND AGREEMENT

15 It is hereby stipulated by and between ROBIN PAULA FROST (hereinafter
16 "Respondent"), who is not represented by counsel, and the Complainant, acting by and through
17 John Van Driel, Counsel for the Department of Real Estate, as follows for the purpose of settling
18 and disposing of the Accusation in this case filed on August 5, 2008.

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

24 2. Respondent has received, read and understands the Statement to Respondent,
25 and the Discovery Provisions of the APA filed by the Department of Real Estate in these
26 proceedings.

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1 3. On August 18, 2008, Respondent filed a Notice of Defense pursuant to Section
2 11505 of the Government Code, for the purpose of requesting a hearing on the allegations in the
3 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
4 Respondent acknowledges that she understands that by withdrawing said Notice of Defense she
5 will thereby waive her rights to require the Commissioner to prove the allegations in the
6 Accusation at a contested hearing held in accordance with the provisions of the APA, and that
7 she will waive other rights afforded to her in connection with the hearing, such as the right to
8 present evidence in defense of the allegations and the right to cross-examine witnesses.

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

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

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

24 DETERMINATION OF ISSUES

25 By reason of the foregoing stipulations, admissions and waivers, and for the
26 purpose of settlement of the pending Accusation without a hearing, it is stipulated and agreed
27 that the following determinations of issues shall be made:

1 The acts and/or omissions of Respondent ROBIN PAULA FROST as stipulated
2 above constitute grounds for disciplinary action against the real estate salesperson license and
3 license rights of Respondent under the provisions of Section 10177(g) of the Code.

4 * * *

5 ORDER

6 A. All real estate license and license rights of Respondent ROBIN PAULA FROST are hereby
7 revoked.

8 B. A restricted real estate salesperson license shall be issued to Respondent pursuant to
9 Section 10156.6 of the Code, if she makes application therefor and pays to the Department
10 of Real Estate the appropriate fee for said license within ninety (90) days from the effective
11 date of the Decision.

12 C. The restricted license issued to Respondent shall be subject to all of the provisions of
13 Section 10156.7 of the Business and Professions Code and to the following limitations,
14 conditions, and restrictions imposed under authority of Section 10156.6 of that Code:

15 (1) The restricted license issued to Respondent may be suspended prior to hearing
16 by Order of the Real Estate Commissioner in the event of Respondent's
17 conviction or plea of nolo contendere to a crime which is substantial related to
18 Respondent's fitness or capacity as a real estate licensee.

19 (2) The restricted license issued to Respondent may be suspended prior to hearing by
20 Order of the Real Estate Commissioner on evidence satisfactory to the
21 Commissioner that Respondent has violated provisions of the California Real
22 Estate Law, the Subdivided Lands Law, Regulations of the Real Estate
23 Commissioner or conditions attaching to the restricted license.

24 (3) Respondent shall not be eligible to apply for the issuance of an unrestricted real
25 estate license, nor the removal of any of the conditions of the restricted license,
26 until two (2) years have elapsed from the effective date of this Decision.

1 (4) Respondent shall submit with any application for license under an employing
2 broker, or any application for transfer to a new employing broker, a statement
3 signed by the prospective employing real estate broker on a form approved by
4 the Department of Real Estate which shall certify:

5 (a) That the employing broker has read the Decision of the Commissioner
6 which granted the right to a restricted license; and,


7 (b) That the employing broker will exercise close supervision over the
8 performance by the restricted licensee relating to activities for which a
9 real estate license is required.

10 (5) Respondent shall, within nine (9) months from the effective date of this Decision,
11 present evidence satisfactory to the Real Estate Commissioner that Respondent
12 has, since the most recent issuance of an original or renewal real estate license,
13 taken and successfully completed the continuing education requirements of
14 Article 2.5 of Chapter 3 of the Real Estate Law for renewal of a real estate license.
15 If Respondent fails to satisfy this condition, the Commissioner may order the
16 suspension of the restricted license until the Respondent presents such evidence.
17 The Commissioner shall afford Respondent the opportunity for hearing pursuant
18 to the Administrative Procedure Act to present such evidence.

19 (6) Respondent shall, within six (6) months from the issuance of the restricted license,
20 take and pass the Professional Responsibility Examination administered by the
21 Department, including the payment of the appropriate examination fee. If
22 Respondent fails to satisfy this condition, the Commissioner may order the
23 suspension of the restricted license until Respondent passes the examination.

24
25 2-27-09

26 DATED

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28 
29 JOHN VAN DRIEL

Counsel for the Complainant

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I have read the Stipulation and Agreement, understand that I have the right to consult with counsel, and its terms are understood by me and are agreeable and acceptable to me. I understand that I am waiving rights given to me by the California Administrative Procedure Act, and I willingly, intelligently, and voluntarily waive those rights, including but not limited to the right of requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I would have the right to cross-examine witnesses against me and to present evidence in defense and mitigation of the charges.

27 FEBRUARY 2009 *Robin Paula Frost*
DATED ROBIN PAULA FROST, Respondent

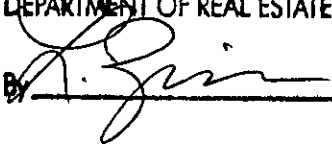
The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on APR 16 2009

IT IS SO ORDERED 3/24/09
JEFF DAVI
Real Estate Commissioner
Jeff Davi

1 DEPARTMENT OF REAL ESTATE
2 P. O. BOX 187007
3 SACRAMENTO, CA 95818-7007
4
5 TELEPHONE: (916) 227-0789

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9 STATE OF CALIFORNIA

10 * * *

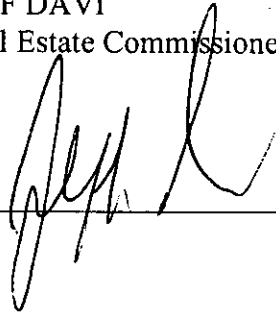
11 In the Matter of the Accusation of)
12 ROBIN PAULA FROST AND) No. H-10492 SF
13 JAMES NICHOLAS KROPA,)
14 Respondents.)

15 DISMISSAL

16 The Accusation herein filed on August 5, 2008, as to Respondent
17 JAMES NICHOLAS KROPA only, is DISMISSED.

18 IT IS SO ORDERED 3/24/09.

19 JEFF DAVI
20 Real Estate Commissioner

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1 JOHN VAN DRIEL, Counsel (SBN 84056)
2 Department of Real Estate
3 P. O. Box 187007
4 Sacramento, CA 95818-7007
5 Telephone: (916) 227-0789
6 -or- (916) 227-0787 (Direct)
7

FILED

AUG - 5 2008

DEPARTMENT OF REAL ESTATE

By *[Signature]*

8 BEFORE THE DEPARTMENT OF REAL ESTATE

9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of) No. H-10492 SF
12 ROBIN PAULA FROST AND) ACCUSATION
13 JAMES NICHOLAS KROPA,)
14 Respondents.)

15 The Complainant, Charles W. Koenig, a Deputy Real Estate
16 Commissioner of the State of California, for causes of
17 Accusation against ROBIN PAULA FROST (FROST) and JAMES NICHOLAS
18 KROPA (KROPA), collectively referred to as "Respondents", is
19 informed and alleges as follows:

20 PRELIMINARY ALLEGATIONS

21 1

22 FROST is presently licensed and/or has license rights
23 under the Real Estate Law, Part 1 of Division 4 of
24 the California Business and Professions Code (the Code) as a real
25 estate salesperson and is employed by KROPA, who is licensed as
26 a real estate broker.

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The Complainant makes this Accusation against Respondents in his official capacity.

3

Within the last three (3) years, Respondents engaged in the business of, acted in the capacity of, advertised, or assumed to act within the State of California as a real estate broker with the public, for or in expectation of compensation, including but not limited to the operation and conduct of a real property sales business wherein Respondents sold or offered to sell, bought or offered to buy, solicited prospective sellers or purchasers of, and/or negotiated the purchase, sale or exchange of real property.

FIRST CAUSE OF ACTION

4

In approximately May 2005, Respondents represented seller Susan Schmidt (Seller) in the sale of real property located 4341 Rose Lane, Concord, California (the property).

5

On or about May 13, 2005, prospective buyer Michael Konesky (Konesky) made an offer to purchase the property for \$650,000. In connection with his proposed purchase, Konesky ordered an inspection of the property. The inspector reported to Konesky that the property contained mold in the basement, caused by improper drainage of water. Seller and Respondents were made aware of the inspector's findings, as set out above.

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1
2 Based on the inspection referred to above, Konesky
3 requested Seller to reduce the sale price of the property to
4 \$610,000. Seller refused to reduce the sale price and the
5 transaction was not consummated.

6
7 On approximately June 10, 2005 Cynthia McLean (McLean)
8 made an offer to purchase the property for \$635,000. Although
9 Respondents provided McLean with a Transfer Disclosure Statement
10 (TDS) for the property, they did not disclose on the TDS, or in
11 any other document or communication to McLean or her agent, the
12 fact that the property had mold and was in need of repairs to
13 correct the mold condition as discovered by Konesky's inspector.

14
15 McLean and her agent made a visual inspection of the
16 property prior to close of escrow, which occurred on August 9,
17 2005, but did not discover the mold or other conditions needing
18 repairs until after close of escrow. Neither Respondents nor
19 Seller disclosed the fact that Konesky's inspector determined
20 that the property had mold and was in need of repairs to correct
21 the mold condition.

22
23 After close of escrow, McLean discovered the fact that
24 the property had mold and was in need of repairs to correct the
25 mold condition as discovered by Konesky's inspector.

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At all times herein mentioned, in connection with the above transaction, Respondents owed to McLean a duty to act honestly and truthfully, and to disclose all facts known to them which materially affected the value or desirability of the property, which were not known to, or within the diligent attention and observation of McLean or her agents.

11

The acts and/or omissions of Respondents as alleged above constitute grounds for discipline under Sections 10176(a) and 10176(i) or 10177(g) of the Code.

SECOND CAUSE OF ACTION

12

The allegations of paragraphs 1 through 11 are incorporated herein by reference.

13

At all times mentioned herein, KROPA failed to exercise reasonable supervision and control of the activities of FROST for which a real estate license is required and was negligent or incompetent in performing acts for which a real estate license is required, in that he knew or should have known all the facts alleged above and that he could have and should have taken steps to assure the full compliance of the Respondents with the Real Estate Law.

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2 The acts and/or omissions of KROPA as alleged in
3 Paragraph 13 above violate Section 2725 of Title 10, California
4 Code of Regulations and are grounds for discipline under
5 Sections 10177(d), 10177(g) and 10177(h) of the Code.

6 WHEREFORE, Complainant prays that a hearing be
7 conducted on the allegations of this Accusation and that upon
8 proof thereof a decision be rendered imposing disciplinary
9 action against all licenses and license rights of Respondents
10 under the Real Estate Law (Part 1 of Division 4 of the Business
11 and Professions Code), and for such other and further relief as
12 may be proper under other provisions of law.

13
14 
15 CHARLES W. KOENIG
16 Deputy Real Estate Commissioner

17 Dated at Sacramento, California,
18 this 5th day of August, 2008.
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