

FILED

SEP 05 2012

1 Department of Real Estate
2 P.O. Box 187007
3 Sacramento, CA 95818-7007

DEPARTMENT OF REAL ESTATE

4 Telephone: (916) 227-0781

By R. Jones

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6
7 BEFORE THE DEPARTMENT OF REAL ESTATE
8 STATE OF CALIFORNIA
9

10 * * *

11 In the Matter of the Accusation of)

No. H-11255 SF

12 TIMOTHY JON CARRE,)

STIPULATION AND
AGREEMENT

13 Respondent.)
14

15 It is hereby stipulated by and between TIMOTHY JON CARRE (Respondent)
16 and the Complainant, acting by and through Truly Sughrue, Counsel for the Department of
17 Real Estate (Department), as follows for the purpose of settling and disposing the Accusation
18 filed on December 1, 2011 in this matter:

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 Procedure 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
25 Respondent, and the Discovery Provisions of the APA filed by the Department in this
26 proceeding.
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1 3. Respondent 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 Respondent hereby freely and voluntarily withdraw said Notice of Defense. Respondent
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense
5 Respondent will thereby waive Respondent's 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 Respondent will waive other rights afforded
8 to Respondent in connection with the hearing such as the right to present evidence in defense of
9 the allegations in the Accusation and the right to cross-examine witnesses.

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

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

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

1 7. The Order or any subsequent Order of the Commissioner made pursuant to
2 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
3 administrative or civil proceedings by the Department with respect to any matters which were not
4 specifically alleged to be causes for accusation in Accusation H-11255 SF or Desist and Refrain
5 Order H-11256 SF.

6 * * *

7 DETERMINATION OF ISSUES

8 By reason of the foregoing stipulations and waivers and solely for the purpose of
9 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the
10 following determination of issues shall be made:

11 I

12 The acts and omissions of Respondent as described in the Accusation are
13 grounds for the suspension or revocation of Respondent's licenses and license rights under
14 Sections 10130, 10166.02, 10085, and 10085.5 of the Business and Professions Code (Code).

15 * * *

16 ORDER

17 I

18 All licenses and licensing rights of Respondent under the Real Estate Law are suspended
19 for a period of one hundred and twenty (120) days from the effective date of this Order;
20 provided, however, that:

21 1) Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent
22 petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to
23 Section 10175.2 of the Code at a rate of \$100 for each day of the suspension for a total
24 monetary penalty of \$3,000.

25 a) Said payment shall be in the form of a cashier's check or certified check made payable to
26 the Consumer Recovery Account of the Real Estate Fund. Said check must be delivered
27 to the Department prior to the effective date of the Order in this matter.

- 1 b) No further cause for disciplinary action against the Real Estate licenses of Respondent
2 occurs within two (2) years from the effective date of the decision in this matter.
- 3 c) If Respondent fails to pay the monetary penalty as provided above prior to the effective
4 date of this Order, the stay of the suspension shall be vacated and the order of suspension
5 shall be immediately executed, in which event Respondent shall not be entitled to any
6 repayment nor credit, prorated or otherwise, for the money paid to the Department under
7 the terms of this Order.
- 8 d) If Respondent pays the monetary penalty and any other moneys due under this Stipulation
9 and Agreement and if no further cause for disciplinary action against the real estate
10 license of Respondent occurs within two (2) years from the effective date of this Order,
11 the entire stay hereby as to Respondent only, shall become permanent.
- 12 2) The remaining ninety (90) days of said suspension shall be stayed for two (2) years upon the
13 following terms and conditions:
 - 14 a) Respondent shall obey all laws, rules and regulations governing the rights, duties and
15 responsibilities of a real estate licensee in the State of California; and,
 - 16 b) That no final subsequent determination be made, after hearing or upon stipulation, that
17 cause for disciplinary action occurred within two (2) years from the effective date of this
18 Order. Should such a determination be made, the Commissioner may, in his discretion,
19 vacate and set aside the stay order and re-impose all or a portion of the stayed suspension.
20 Should no such determination be made, the stay imposed herein shall become permanent.
- 21 3) Respondent shall, within six (6) months from the effective date of this Decision, take and
22 pass the Professional Responsibility Examination administered by the Department including
23 the payment of the appropriate examination fee. If Respondent fails to satisfy this condition,
24 the Commissioner may order suspension of the license until Respondent passes the
25 examination.

24 7-June-12
25 DATED

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25 TRULY SUGHRUE
26 Counsel for Complainant

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I have read the Stipulation and Agreement, discussed it 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 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.

6/14/2012
DATED

Timothy Jon Carre
TIMOTHY JON CARRE
Respondent

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

6-6-12

DATED

Joshua A. Rosenthal
JOSHUA A. ROSENTHAL
Attorney for Respondent

The foregoing Stipulation and Agreement is hereby adopted as my Decision and shall become effective at 12 o'clock noon on SEP 25 2012.

IT IS SO ORDERED 8/23/2012

Real Estate Commissioner

Wayne S. Bell
By WAYNE S. BELL
Chief Counsel