

FILED

SEP 12 2014

BUREAU OF REAL ESTATE

By S. Blach

1 BUREAU OF REAL ESTATE
2 P. O. Box 137007
3 Sacramento, CA 95813-7007

4 Telephone: (916) 263-8670
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6 BEFORE THE BUREAU OF REAL ESTATE

7 STATE OF CALIFORNIA

8 * * *

9 In the Matter of the First Amended Accusation of)
10)
11 STOKLEY PROPERTIES, INC.,)
12 a Corporation, and)
13 JOSEPH FRANCIS STOKLEY, JR.,)
14 Respondents.)

NO. H-11527 SF

STIPULATION AND AGREEMENT
IN SETTLEMENT
AND ORDER

15 It is hereby stipulated by and between Respondents STOKLEY PROPERTIES,
16 INC. (herein "SPI") and JOSEPH FRANCIS STOKLEY, JR. (herein "STOKLEY") (herein
17 collectively "Respondents"), individually and jointly, by and through Candice E. Stoddard,
18 attorney of record herein for Respondents, and the Complainant, acting by and through Mary F.
19 Clarke, Counsel for the Bureau of Real Estate (herein "the Bureau"), as follows for the purpose
20 of settling and disposing of the First Amended Accusation filed on February 20, 2014 in this
21 matter (herein "the First Amended Accusation");

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

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

4 3. Notices of Defense were filed on March 13, 2013, by Respondents pursuant to
5 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations
6 in the Accusation and the First Amended Accusation. Respondents hereby freely and voluntarily
7 withdraw said Notices of Defense. Respondents acknowledge that they understand that by
8 withdrawing said Notices of Defense, they will thereby waive their rights to require the Real
9 Estate Commissioner (herein "Commissioner") to prove the allegations in the First Amended
10 Accusation at a contested hearing held in accordance with the provisions of the APA and that
11 they will waive other rights afforded to them in connection with the hearing such as the right to
12 present evidence in defense of the allegations in the First Amended Accusation and the right to
13 cross-examine witnesses.

14 4. This Stipulation is based on the factual allegations contained in the First
15 Amended Accusation. In the interests of expedience and economy, Respondents choose not to
16 contest these allegations, but to remain silent and understand that, as a result thereof, these
17 factual allegations, without being admitted or denied, will serve as a prima facie basis for the
18 disciplinary action stipulated to herein. The Commissioner shall not be required to provide
19 further evidence to prove said factual allegations.

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

1
2
3 ORDER

4 I

5 All licenses and licensing rights of Respondent SPI under the Real Estate Law
6 are suspended for a period of sixty (60) days from the effective date of this Order; provided,
7 however, that:

8 1. Thirty (30) days of said sixty (60) day said suspension shall be stayed for two
9 (2) years upon the following terms and conditions:

10 (a) Respondent shall obey all laws, rules and regulations governing the
11 rights, duties and responsibilities of a real estate licensee in the
12 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
15 two (2) years from the effective date of this Order. Should such a
16 determination be made, the Commissioner may, in his discretion,
17 vacate and set aside the stay order and reimpose all or a portion of
18 the stayed suspension. Should no such determination be made, the
19 stay imposed herein shall become permanent.

20 2. The remaining thirty (30) days of said sixty (60) day suspension shall be
21 stayed upon the condition that Respondent petitions, pursuant to Section 10175.2 of the Code,
22 and pays a monetary penalty, pursuant to Section 10175.2, of the Code at a rate of \$100.00 for
23 each day of said remaining thirty (30) days for a total monetary penalty of \$3,000.00:

24 (a) Said payment shall be in the form of a cashier's check or certified
25 check made payable to the Recovery Account of the Real Estate Fund.
26 Said check must be received by the Bureau prior to the effective date
27 of this Order.

1 (b) No further cause for disciplinary action against the Real Estate license
2 of Respondent occurs within two (2) years from the effective date of
3 this Order.

4 (c) If Respondent fails to pay the monetary penalty as provided above prior
5 to the effective date of this Order, the suspension shall go into effect
6 automatically and remain in effect until Respondent pays the monetary
7 penalty in full, in which event Respondent shall not be entitled to any
8 repayment nor credit, prorated or otherwise, for the money paid to the
9 Bureau under the terms of this Order.

10 (d) If Respondent pays the monetary penalty and any other moneys due
11 under this Stipulation and Agreement in Settlement and if no further
12 cause for disciplinary action against the real estate license of
13 Respondent occurs within two (2) years from the effective date of this
14 Order, the entire stay hereby granted under this Order shall become
15 permanent.

16
17 3. Respondent understands that by agreeing to this Stipulation and Agreement in
18 Settlement and Order, Respondent agrees to pay, jointly and severally with Respondent
19 STOKLEY, pursuant to Section 10148 of the Code, the cost of the audit which resulted in the
20 determination that Respondent committed the trust fund violations found in the Determination of
21 Issues, above. The amount of said cost is \$5,421.58. Respondent shall pay such cost within
22 sixty (60) days of receiving an invoice therefore from the Commissioner. If Respondent fails to
23 pay such cost within the sixty (60) days, Respondent's real estate license shall automatically be
24 suspended until Respondent's payment is made in full. Upon payment in full, the indefinite
25 suspension provided for in this paragraph shall be stayed.

1 4. Respondent shall pay, jointly and severally with Respondent STOKLEY, the
 2 Commissioner's costs, not to exceed \$5,421.58, of any audit conducted pursuant to Section
 3 10148 of the Code to determine if Respondent has corrected the violations described in the
 4 Determination of Issues, above. In calculating the amount of the Commissioner's reasonable
 5 cost, the Commissioner may use the estimated average hourly salary for all persons performing
 6 audits of real estate brokers, and shall include an allocation for travel time to and from the
 7 auditor's place of work. Respondent shall pay such cost within sixty (60) days of receiving an
 8 invoice therefore from the Commissioner detailing the activities performed during the audit and
 9 the amount of time spent performing those activities. If Respondent fails to pay such cost within
 10 the sixty (60) days, Respondent's real estate license shall automatically be suspended until
 11 Respondent's payment is made in full. Upon payment in full, the indefinite suspension provided
 12 for in this paragraph shall be stayed.

13 5. Respondent shall pay, jointly and severally with Respondent STOKLEY, the
 14 sum of \$1,729.25 for the Commissioner's investigative and enforcement costs, pursuant to
 15 Section 10106(a) of the Code, for the investigation and enforcement which led to this
 16 disciplinary action. Said payment shall be in the form of a cashier's check or certified check
 17 made payable to the Real Estate Fund. Said check must be received by the Bureau prior to the
 18 effective date of this Order. If Respondent fails to satisfy this condition, Respondent's real
 19 estate license shall automatically be suspended until Respondent's payment is made in full.

20 II

21 All licenses and licensing rights of Respondent STOKLEY under the Real Estate
 22 Law are suspended for a period of sixty (60) days from the effective date of this Order;

23 provided, however, that:

24 1. All licenses and licensing rights of Respondent under the Real Estate Law are
 25 suspended until such time as Respondent provides proof satisfactory to the Commissioner that
 26 Respondent has, within one hundred twenty (120) days prior to the effective date of the Order

1 herein completed the continuing education course on trust fund accounting and handling
2 specified in subdivision (a) of Section 10170.5 of the Code.

3 2. Thirty (30) days of said sixty (60) day said suspension shall be stayed for two
4 (2) years upon the following terms and conditions:

5 (a) Respondent shall obey all laws, rules and regulations governing the
6 rights, duties and responsibilities of a real estate licensee in the
7 State of California; and,

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

15 3. The remaining thirty (30) days of said sixty (60) day suspension shall be
16 stayed upon the condition that Respondent petitions, pursuant to Section 10175.2 of the Code,
17 and pays a monetary penalty, pursuant to Section 10175.2, of the Code at a rate of \$100.00 for
18 each day of said remaining thirty (30) days for a total monetary penalty of \$3,000.00:

19 (a) Said payment shall be in the form of a cashier's check or certified
20 check made payable to the Recovery Account of the Real Estate Fund.
21 Said check must be received by the Bureau prior to the effective date
22 of this Order.

23 (b) No further cause for disciplinary action against the Real Estate license
24 of Respondent occurs within two (2) years from the effective date of
25 this Order.

1 (c) If Respondent fails to pay the monetary penalty as provided above prior
2 to the effective date of this Order, the suspension shall go into effect
3 automatically and remain in effect until Respondent pays the monetary
4 penalty in full, in which event Respondent shall not be entitled to any
5 repayment nor credit, prorated or otherwise, for the money paid to the
6 Bureau under the terms of this Order.

7 (d) If Respondent pays the monetary penalty and any other moneys due
8 under this Stipulation and Agreement in Settlement and if no further
9 cause for disciplinary action against the real estate license of
10 Respondent occurs within two (2) years from the effective date of this
11 Order, the entire stay hereby granted under this Order shall become
12 permanent.

13 4. Respondent understands that by agreeing to this Stipulation and Agreement in
14 Settlement and Order, Respondent agrees to pay, jointly and severally with Respondent SPI,
15 pursuant to Section 10148 of the Code, the cost of the audit which resulted in the determination
16 that Respondent committed the trust fund violations found in the Determination of Issues, above.
17 The amount of said cost is \$5,421.58. Respondent shall pay such cost within sixty (60) days of
18 receiving an invoice therefore from the Commissioner. If Respondent fails to pay such cost
19 within the sixty (60) days, Respondent's real estate license shall automatically be suspended until
20 Respondent's payment is made in full. Upon payment in full, the indefinite suspension provided
21 for in this paragraph shall be stayed.

22 5. Respondent shall pay, jointly and severally with Respondent SPI, the
23 Commissioner's costs, not to exceed \$5,421.58, of any audit conducted pursuant to Section
24 10148 of the Code to determine if Respondent has corrected the violations described in the
25 Determination of Issues, above. In calculating the amount of the Commissioner's reasonable
26 cost, the Commissioner may use the estimated average hourly salary for all persons performing
27

1 audits of real estate brokers, and shall include an allocation for travel time to and from the
2 auditor's place of work. Respondent shall pay such cost within sixty (60) days of receiving an
3 invoice therefore from the Commissioner detailing the activities performed during the audit and
4 the amount of time spent performing those activities. If Respondent fails to pay such cost within
5 the sixty (60) days, Respondent's real estate license shall automatically be suspended until
6 Respondent's payment is made in full. Upon payment in full, the indefinite suspension provided
7 for in this paragraph shall be stayed.

8 6. Respondent shall pay, jointly and severally with Respondent SPI, the sum of
9 \$1,729.25 for the Commissioner's investigative and enforcement costs, pursuant to Section
10 10106(a) of the Code, for the investigation and enforcement which led to this disciplinary
11 action. Said payment shall be in the form of a cashier's check or certified check made payable to
12 the Real Estate Fund. Said check must be received by the Bureau prior to the effective date of
13 this Order. If Respondent fails to satisfy this condition, Respondent's real estate license shall
14 automatically be suspended until Respondent's payment is made in full.

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

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21
22 8-20-14

23 DATED

24 
25 MARY F. CLARKE, Counsel
26 BUREAU OF REAL ESTATE

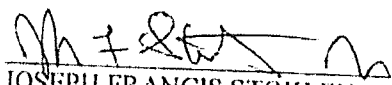
27 * * *

I have read the Stipulation and Agreement in Settlement and Order and its terms

1 are understood by me and are agreeable and acceptable to me. I understand that I am waiving
2 rights given to me by the California APA (including but not limited to Sections 11506, 11508,
3 11509, and 11513 of the Government Code), and I willingly, intelligently, and voluntarily waive
4 those rights, including the right of requiring the Commissioner to prove the allegations in the
5 First Amended Accusation at a hearing at which I would have the right to cross-examine
6 witnesses against me and to present evidence in defense and mitigation of the charges.

9 AUG - 19 - 2014
10 DATED

STOKLEY PROPERTIES, INC.
Respondent

11 By: 
12 JOSEPH FRANCIS STOKLEY, JR.
13 Designated Officer - Broker

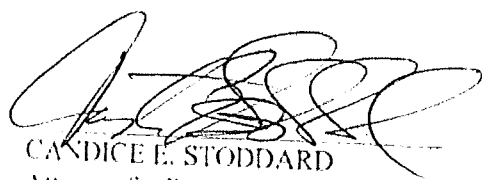
14
15 AUG - 19 - 2014
16 DATED


17 JOSEPH FRANCIS STOKLEY, JR.
18 Respondent

19 ***

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

22 8-19-14
23 DATED


24 CANDICE E. STODDARD
25 Attorney for Respondent

26 ***

27 The foregoing Stipulation and Agreement in Settlement and Order is hereby

1 adopted by me as my Decision in this matter and shall become effective at 12 o'clock noon on
2 OCT 03 2014, 2014.

3
4 IT IS SO ORDERED SEPTEMBER 4, 2014.

6 REAL ESTATE COMMISSIONER

7
8 

9 By: JEFFREY MASON
10 Chief Deputy Commissioner