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| DEC 1 0 2014 |
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| BUREAU OF REAL ESTATE |
| By S. Black |

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

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Telephone: (916) 263-8672

BEFORE THE BUREAU OF REAL ESTATE

STATE OF CALIFORNIA

11 In the Matter of the Accusation of

<u>III CREATE INC</u>. and BARBARA A. BRENZEL,

No. H-11752 SF STIPULATION AND AGREEMENT

Respondents.

It is hereby stipulated by and between III CREATE INC. (Respondent), represented by Shannon B. Jones, and the Complainant, acting by and through Truly Sughrue, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling and disposing the Accusation filed on September 3, 2014 in this matter:

1. All issues which were to be contested and all evidence which was to be presented by Complainant and Respondent 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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2. Respondent has received, read, and understands the Statement to Respondent, and the Discovery Provisions of the APA filed by the Bureau in this proceeding.

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1 8. It is understood by the parties that the Commissioner may adopt the 2 Stipulation and Agreement as his decision in this matter thereby imposing the penalty and 3 sanctions on the real estate licenses and license rights of Respondents as set forth in the below "Order". In the event that the Commissioner in his discretion does not adopt the Stipulation and Agreement, it shall be void and of no effect, and Respondents shall retain the right to a hearing and proceeding on the Accusations under all the provisions of the APA and shall not be bound by any admission or waiver made herein.

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8 9. The Order or any subsequent Order of the Commissioner made pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further 9 10 administrative or civil proceedings by the Bureau of Real Estate with respect to any matters 11 which were not specifically alleged in Accusation H-11752 SF. The Bureau agrees to take no further disciplinary action against Respondent, its former DO, Larry Spiteri, William Abourand, 12 13 or any other officers or directors of Respondent for acts alleged in Accusation H-11752 SF.

DETERMINATION OF ISSUES

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16 By reason of the foregoing stipulations and waivers and solely for the purpose of 17 settlement of the pending Accusation without a hearing, it is stipulated and agreed that the 18 following determination of issues shall be made:

20 The acts and omissions of Respondent as described in the First Cause of Action 21 of the Accusation are grounds for the suspension or revocation of Respondent's licenses and license rights under Section 10177(d) of the Business and Professions Code (Code). 22

ORDER

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26 All licenses and licensing rights of Respondent under the Real Estate Law are 27 suspended for a period of sixty (60) days from the effective date of this Order; provided,

| 1 | however, that: |
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| 2 | 1) Thirty (30) days of said suspension shall be stayed, upon the condition that Respondent |
| 3 | petition pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section |
| 4 | 10175.2 of the Code at a rate of \$75 for each day of the suspension for a total monetary penalty |
| 5 | of \$2,250. |
| 6 | a) Said payment shall be in the form of a cashier's check made payable to the Bureau of |
| 7 | Real Estate. Said check must be delivered to the Bureau of Real Estate, Flag Section at |
| 8 | P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Order. |
| 9 | b) No further cause for disciplinary action against the Real Estate licenses of Respondent |
| 10 | occurs within two (2) years from the effective date of the decision in this matter. |
| 11 | c) If Respondent fails to pay the monetary penalty as provided above prior to the effective |
| 12 | date of this Order, the stay of the suspension shall be vacated as to that Respondent and |
| 13 | the order of suspension shall be immediately executed, under this Order, in which event |
| 14 | the said Respondent shall not be entitled to any repayment nor credit, prorated or |
| 15 | otherwise, for the money paid to the Bureau under the terms of this Order. |
| 16 | d) If Respondent pays the monetary penalty and any other moneys due under this Stipulation |
| 17 | and Agreement and if no further cause for disciplinary action against the real estate |
| 18 | license of said Respondent occurs within two (2) years from the effective date of this |
| 19 | Order, the entire stay hereby granted this Order, as to said Respondent only, shall become |
| 20 | permanent. |
| 21 | 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the following terms |
| 22 | and conditions: |
| 23 | a) Respondent shall obey all laws, rules and regulations governing the rights, duties and |
| 24 | responsibilities of a real estate licensee in the State of California; and, |
| 25 | b) That no final subsequent determination be made, after hearing or upon stipulation, that |
| 26 | cause for disciplinary action occurred within two (2) years from the effective date of this |
| 27 | Order. Should such a determination be made, the Commissioner may, in his discretion, |
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vacate and set aside the stay order and reimpose all or a portion of the stayed suspension. Should no such determination be made, the stay imposed herein shall become permanent.
3) Respondent shall pay the sum of \$5,181 for the Commissioner's cost of the audit which led to this disciplinary action. Respondent shall pay such cost within sixty (60) days of receiving an invoice therefore from the Commissioner. Payment of audit costs should not be made until Respondent receives the invoice. If Respondent fails to satisfy this condition in a timely manner as provided for herein, Respondent's real estate licenses shall automatically be suspended until payment is made in full, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.
4) Respondent shall pay the Commissioner's reasonable cost, not to exceed \$5,181, for an audit to determine if Respondent has corrected the violation(s) found in the Determination of Issues. 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. Respondents 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 Respondent fails to satisfy this condition in a timely manner as provided for herein, Respondent real estate license shall automatically be suspended until payment is made in full, or until a decision providing otherwise is adopted following a hearing held pursuant to this condition.

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TRULY SUGHRUE Counsel for Complainant

I have read the Stipulation and Agreement, discussed it with my 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,

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H-11752 SF 05/19/11 intelligently and voluntarily waive those rights, including the right of requiring the
 Commissioner to prove the allegations in the Accusations 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.

3 4 5 DAT liam Michael Aboumrad, on behalf of 6 **III CREATE INC.** Respondent 7 8 9 I have reviewed the Stipulation and Agreement as to form and content and have 10 advised my client accordingly. 11 12 13 DATED SHANNON B. JONES Attorney for Respondent 14 15 The foregoing Stipulation and Agreement is hereby adopted as my Decision and 16 DEC 3 1 2014 shall become effective at 12 o'clock noon on 17 09 201 DEC 18 IT IS SO ORDERED 19 COMMISSIONER 20 RF 21 22 By: JEFFREY MASON Chief Deputy Commissioner 23 24 25 26 27 - 6 -H-11752 SF