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BUREAU OF REAL ESTATE  
P. O. Box 137007  
Sacramento, CA 95813-7007  
  
Telephone: (916) 263-8670  
Fax: (916) 263-3767

BUREAU OF REAL ESTATE  
By Adew

BEFORE THE BUREAU OF REAL ESTATE  
STATE OF CALIFORNIA

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|                                    |   |                                  |
|------------------------------------|---|----------------------------------|
| In the Matter of the Accusation of | ) |                                  |
|                                    | ) | NO. H-11850 SF                   |
| FOUNDATION RENTALS AND             | ) |                                  |
| RELOCATION INC.                    | ) | <u>STIPULATION AND AGREEMENT</u> |
| CHRISTOPHER SEAN BARROW, and       | ) | <u>IN SETTLEMENT AND ORDER</u>   |
| ANDREA KATHARINE DAY,              | ) |                                  |
|                                    | ) | <u>AS TO ANDREA KATHARINE</u>    |
|                                    | ) | <u>DAY ONLY</u>                  |
| Respondents.                       | ) |                                  |

It is hereby stipulated by and between Respondent ANDREA KATHARINE DAY (herein "Respondent") by and through Frank McKeown, attorney of record herein for Respondent and the Complainant, acting by and through Mary F. Clarke, Counsel for the Bureau of Real Estate (herein "Bureau"), as follows for the purpose of settling and disposing the Accusation filed on June 8, 2015, in this matter (herein "Accusation"):

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 (herein "APA"), shall instead and in place thereof be submitted on the basis of the provisions of this Stipulation and Agreement in Settlement and Order (herein "Stipulation").

1           2. Respondent has received, read and understands the Statement to Respondent,  
2 the Discovery Provisions of the APA, and the Accusation filed by the Bureau in this proceeding.

3           3. A Notice of Defense was filed on June 18, 2015 by Respondent pursuant to  
4 Section 11505 of the Government Code for the purpose of requesting a hearing on the allegations  
5 in the Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.  
6 Respondent acknowledges she understands that by withdrawing said Notice of Defense she will  
7 thereby waive her rights to require the Real Estate Commissioner (herein "Commissioner") to  
8 prove the allegations in the Accusation at a contested hearing held in accordance with the  
9 provisions of the APA and that she will waive other rights afforded to her in connection with the  
10 hearing such as the right to present evidence in defense of the allegations in the Accusation and  
11 the right to cross-examine witnesses.

12           4. Respondent, pursuant to the "Determination of Issues" set forth below, hereby  
13 admits that the factual allegations, in the Accusation filed in this proceeding are true and correct  
14 and the Commissioner shall not be required to provide further evidence of such allegations.

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

21           6. The "Order" or any subsequent Order of the Commissioner made pursuant to  
22 this Stipulation shall not constitute an estoppel, merger, or bar to any further administrative or  
23 civil proceedings by the Bureau with respect to any matters which were not specifically alleged to  
24 be causes for accusation in this proceeding.

25           7. Respondent understands that by agreeing to this Stipulation, Respondent agrees  
26 to pay, pursuant to Section 10106(a) of the California Business and Professions Code (herein  
27 Code"), investigative and enforcement costs of \$2,320.65 which led to this disciplinary action.

1 DETERMINATION OF ISSUES

2 The acts and/or omissions of Respondent as described in the Accusation are  
3 grounds for the suspension or revocation of the license and license rights of Respondent under  
4 the Sections 10130, 10137, 10159.5 and 10177(d) of the Code and Section 2731 of Title 10  
5 Chapter 6 of the California Code of Regulations.

6 ORDER

7 All licenses and licensing rights of Respondent under the Real Estate Law are  
8 revoked; provided, however, a restricted real estate *salesperson* license shall be issued to  
9 Respondent pursuant to Section 10156.5 of the Code if, within 90 days from the effective date  
10 of the Decision entered pursuant to this Order, Respondent, prior to and as a condition of the  
11 issuance of said restricted license makes application for the restricted license and pays to the  
12 Bureau the appropriate fee therefor.

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

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

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

25 3. Respondent shall not be eligible to apply for the issuance of an unrestricted  
26 real estate license or for the removal of any of the conditions, limitations, or restrictions of a  
27 restricted license 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 signed by the  
3 prospective employing real estate broker on a form approved by the Bureau of Real Estate which  
4 shall certify:

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

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

10                   5. Respondent shall, within nine (9) months from the effective date of this  
11 **Decision**, present evidence satisfactory to the Commissioner that Respondent has, since the most  
12 recent issuance of an original or renewal real estate license, taken and successfully completed the  
13 continuing education requirements of Article 2.5 of Chapter 3 of the Real Estate Law for renewal  
14 of a real estate license. If Respondent fails to satisfy this condition, Respondent's real estate  
15 license shall automatically be suspended until Respondent presents evidence satisfactory to the  
16 Commissioner of having taken and successfully completed the continuing education  
17 requirements. **Proof of completion of the continuing education courses must be delivered to**  
18 **the Bureau of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013.**

19                   6. Respondent shall, within six (6) months from the effective date of this  
20 **Decision**, take and pass the Professional Responsibility Examination administered by the  
21 Bureau including the payment of the appropriate examination fee. If Respondent fails to satisfy  
22 this condition, Respondent's real estate license shall automatically be suspended until  
23 Respondent passes the examination.

24                   7. All licenses and licensing rights of Respondent are indefinitely suspended  
25 unless or until Respondent pays the sum of \$2,320.65 for the Commissioner's reasonable cost  
26 of the investigation and enforcement which led to this disciplinary action. Said payment shall  
27 be in the form of a cashier's check made payable to the Bureau of Real Estate. **The**



1 **investigative and enforcement costs must be delivered to the Bureau of Real Estate, Flag**  
2 **Section at P.O. Box 137007, Sacramento, CA 95813-7007, prior to the effective date of**  
3 **this Decision.**

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\_\_\_\_\_ DATED

\_\_\_\_\_ MARY F. CLARKE, Counsel  
Bureau of Real Estate

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Respondent can signify acceptance and approval of the terms and conditions of this Stipulation by faxing or electronically e-mailing a copy of the signature page, as actually signed by Respondent, to the Bureau at fax number (916) 263-3767. Respondent agrees, acknowledges and understands that by electronically sending to the Bureau a fax or other electronic copy of Respondent's actual signatures as they appear on the Stipulation, that receipt of the faxed or e-mailed copy by the Bureau shall be as binding on Respondent as if the Bureau had received the original signed Stipulation.

I have read this Stipulation 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 APA (including but not limited to Sections 11506, 11508, 11509, and 11513 of the Government Code), 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.

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2/8/16  
\_\_\_\_\_ DATED

  
\_\_\_\_\_ ANDREA KATHARINE DAY  
Respondent

\* \* \*

1 investigative and enforcement costs must be delivered to the Bureau of Real Estate, Flag  
2 Section at P.O. Box 137007, Sacramento, CA 95813-7007, prior to the effective date of  
3 this Decision.

4  
5 11-16-15  
6 \_\_\_\_\_  
7 DATED

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10 \_\_\_\_\_  
11 MARY K. CLARKE, Counsel  
12 Bureau of Real Estate

13 \*\*\*

14 Respondent can signify acceptance and approval of the terms and conditions of  
15 this Stipulation by faxing or electronically e-mailing a copy of the signature page, as actually  
16 signed by Respondent, to the Bureau at fax number (916) 263-3767. Respondent agrees,  
17 acknowledges and understands that by electronically sending to the Bureau a fax or other  
18 electronic copy of Respondent's actual signatures as they appear on the Stipulation, that receipt  
19 of the faxed or e-mailed copy by the Bureau shall be as binding on Respondent as if the Bureau  
20 had received the original signed Stipulation.

21 I have read this Stipulation and its terms are understood by me and are agreeable  
22 and acceptable to me. I understand that I am waiving rights given to me by the California APA  
23 (including but not limited to Sections 11506, 11508, 11509, and 11511) of the Government  
24 Code), and I willingly, intelligently, and voluntarily waive those rights, including the right of  
25 requiring the Commissioner to prove the allegations in the Accusation at a hearing at which I  
26 would have the right to cross-examine witnesses against me and to present evidence in defense  
27 and mitigation of the charges.

28 11/16/15  
29 \_\_\_\_\_  
30 DATED

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32 \_\_\_\_\_  
33 ANDREA KATHARINE DAY  
34 Respondent

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

3  
4 2-8-16

5 DATED



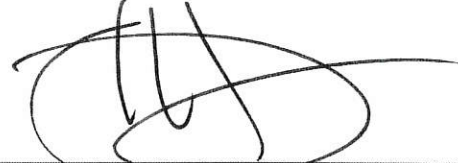
6 FRANK McKEOWN  
7 Attorney for Respondent

8 \* \* \*

9 The foregoing Stipulation and Agreement in Settlement and Order as to  
10 Respondent ANDREA KATHARINE DAY is hereby adopted by me as my Decision in this  
11 matter and shall become effective at 12 o'clock noon on APR 27 2016  
12 ,

13 IT IS SO ORDERED MARCH 30, 2016  
14 ,

15 WAYNE S. BELL  
16 REAL ESTATE COMMISSIONER



17 By: JEFFREY MASON  
18 Chief Deputy Commissioner