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Bureau of Real Estate
P.O. Box 187007
Sacramento, CA 95818-7007

BUREAU OF REAL ESTATE
By S. Bleck

Telephone: (916) 227-0781

BEFORE THE BUREAU OF REAL ESTATE
STATE OF CALIFORNIA

In the Matter of the Accusation of)
BRION SCOTT MASKELL,)
Respondent.)

No. H-11875 SF

STIPULATION AND
AGREEMENT

It is hereby stipulated by and between BRION SCOTT MASKELL (Respondent) and the Complainant, acting by and through Stephanie K. Sese, Counsel for the Bureau of Real Estate (Bureau), as follows for the purpose of settling and disposing of the Accusation filed on August 5, 2015 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.

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.

3. Respondent filed a Notice of Defense pursuant to Section 11505 of the California Government Code for the purpose of requesting a hearing on the allegations in the

1 Accusation. Respondent hereby freely and voluntarily withdraws said Notice of Defense.
2 Respondent acknowledges and understands that by withdrawing said Notice of Defense
3 Respondent will thereby waive Respondent's rights to require the Real Estate Commissioner
4 (Commissioner) to prove the allegations in the Accusation at a contested hearing held in
5 accordance with the provisions of the APA, and Respondent will thereby waive other rights
6 afforded to Respondent in connection with the hearing, such as the right to present evidence in
7 defense of the allegations in the Accusation and the right to cross-examine witnesses.

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

12 5. This Stipulation and Agreement and Respondent's decision not to contest
13 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
14 are expressly limited to this proceeding and any other proceeding or case in which the Bureau,
15 the state or federal government, an agency of this state, or an agency of another state is involved.

16 6. Respondent understands that by agreeing to this Stipulation and
17 Agreement, Respondent agrees to pay, pursuant to Section 10148 of the California Business and
18 Professions Code (Code), the costs of the audit which resulted in the determination that
19 Respondent committed the trust fund violation(s) found in the Determination of Issues. The
20 amount of said costs is \$5,496.07.

20 7. Respondent further understands that by agreeing to this Stipulation and
21 Agreement, the findings set forth below in the Determination of Issues become final and the
22 Commissioner may charge Respondent the costs of any audit conducted pursuant to Section
23 10148 of the Code to determine if the violations have been corrected. The maximum costs of
24 said audit shall not exceed \$5,496.07.

25 8. Respondent further understands that by agreeing to this Stipulation and
26 Agreement, Respondent agrees to pay, pursuant to Section 10106(a) of the Code, the

1 investigative and enforcement costs which led to this disciplinary action. The amount of said
2 costs is \$1,549.00.

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

10 10. The Order or any subsequent Order of the Commissioner made pursuant to
11 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
12 administrative or civil proceedings by the Bureau with respect to any matters which were not
13 specific allegations contained within the Accusation.

14 * * *

15 DETERMINATION OF ISSUES

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

19 The acts and/or omissions of Respondent as described in the Accusation are
20 grounds for the suspension or revocation of Respondent's license and license rights under the
21 following sections of the Code and the Regulations of the Real Estate Commissioner
22 (Regulations):

23 As to Paragraph 5(a), under Sections 10177(d), 10177(g), and 10145 of the Code
24 in conjunction with Section 2832.1 of the Regulations;

25 As to Paragraph 5(b), under Sections 10177(d), 10177(g), and 10145 of the Code
26 in conjunction with Section 2832 of the Regulations;

27 As to Paragraph 5(c), under Sections 10177(d), 10177(g), and 10175(e) of the
Code in conjunction with Section 2835 of the Regulations;

1 As to Paragraph 5(d), under Sections 10177(d), 10177(g), and 10145 of the Code
2 in conjunction with Section 2832 of the Regulations;

3 As to Paragraph 5(e), under Sections 10177(d), 10177(g), and 10145 of the Code
4 in conjunction with Section 2834 of the Regulations;

5 As to Paragraph 5(f), under Sections 10177(d), 10177(g), and 10145 of the Code
6 in conjunction with Section 2831 of the Regulations;

7 As to Paragraph 5(g), under Sections 10177(d), 10177(g), and 10145 of the Code
8 in conjunction with Section 2831.1 of the Regulations; and,

9 As to Paragraph 5(h), under Sections 10177(d), 10177(g), and 10145 of the Code
10 in conjunction with Section 2831.2 of the Regulations.

11 * * *

12 ORDER

13 All licenses and licensing rights of Respondent under the Real Estate Law are
14 revoked; provided, however, a restricted real estate broker license shall be issued to Respondent
15 pursuant to Section 10156.5 of the Code if Respondent makes application therefor and pays to
16 the Bureau the appropriate fee for the restricted license within 90 days from the effective date of
17 this Decision and Order. The restricted license issued to Respondent shall be subject to all
18 provisions of Section 10156.7 of the Code and to the following limitations, conditions and
19 restrictions imposed under authority of Section 10156.6 of the Code:

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

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

1 3. Respondent shall not be eligible to apply for the issuance of an
2 unrestricted real estate license nor for removal of any of the conditions, limitations or restrictions
3 of a restricted license until two (2) years have elapsed from the effective date of this Decision
4 and Order.

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

15 5. All licenses and licensing rights of Respondent are indefinitely suspended
16 unless or until Respondent provides proof satisfactory to the Commissioner of having taken and
17 successfully completed the continuing education course on trust fund accounting and handling as
18 specified in Paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of
19 satisfaction of these requirements includes evidence that Respondent has successfully completed
20 the trust fund account and handling continuing education courses no earlier than 120 days prior
21 to the effective date of the Decision and Order in this matter. Proof of completion of the trust
22 fund accounting and handling course must be delivered to the Bureau of Real Estate Flag Section
23 at P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8758 prior to the
24 effective date of this Decision and Order.

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

1 7. Pursuant to Section 10148 of the Code Respondent shall pay the sum of
2 \$5,496.07 for the Commissioner's costs of the audit which led to this disciplinary action.
3 Respondent shall pay such costs within sixty (60) days of receiving an invoice from the
4 Commissioner. Payment of audit costs should not be made until Respondent receives the
5 invoice. If Respondent fails to satisfy this condition in a timely manner as provided herein,
6 Respondent's real estate license shall automatically be suspended until payment is made in full or
7 until a decision providing otherwise is adopted following a hearing held pursuant to this
8 condition.

9 8. Pursuant to Section 10148 of the Code Respondent shall pay the
10 Commissioner's reasonable costs, not to exceed \$5,496.07, for an audit to determine if
11 Respondent has corrected the violation(s) found in the Determination of Issues. In calculating
12 the amount of the Commissioner's reasonable costs the Commissioner may use the estimated
13 average hourly salary for all persons performing audits of real estate brokers and shall include an
14 allocation for travel time to and from the auditor's place of work. Respondent shall pay such
15 costs within sixty (60) days of receiving an invoice from the Commissioner. Payment of the
16 audit costs should not be made until Respondent receives the invoice. If Respondent fails to
17 satisfy this condition in a timely manner as provided herein, Respondent's real estate license
18 shall automatically be suspended until payment is made in full or until a decision providing
19 otherwise is adopted following a hearing held pursuant to this condition.


20 9. All licenses and licensing rights of Respondent are indefinitely suspended
21 unless or until Respondent pays the sum of \$1,549.00 for the Commissioner's reasonable cost of
22 the investigation and enforcement which led to this disciplinary action. Said payment shall be in
23 the form of a cashier's check made payable to the Bureau of Real Estate. The investigative and
24 enforcement costs must be delivered to the Bureau of Real Estate, Flag Section at P.O. Box
25 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.

26
27
28 2/25/16
29 DATED

30 SKS
31 STEPHANIE K. SESE
32 Counsel for Complainant

1 I have read the Stipulation and Agreement and its terms are understood by me and
2 are agreeable and acceptable to me. I understand that I am waiving rights given to me by the
3 California Administrative Procedure Act and I willingly, intelligently and voluntarily waive those
4 rights, including the right of requiring the Commissioner to prove the allegations in the
5 Accusation at a hearing at which I would have the right to cross-examine witnesses against me
6 and to present evidence in defense and mitigation of the charges.

7
8 2/25/16
9 DATED



BRION SCOTT MASKELL
Respondent

10 ***

11 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
12 shall become effective at 12 o'clock noon on MAR 28 2016

13 IT IS SO ORDERED MAR 24 4, 2016

14 WAYNE S. BELL
15 Real Estate Commissioner

16
17 By: 
18 JEFFREY MASON
19 Chief Deputy Commissioner