

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

4 Telephone: (916) 263-8670

**FILED**

MAY 29 2020

DEPARTMENT OF REAL ESTATE  
By L. Xwaypp

8 BEFORE THE DEPARTMENT OF REAL ESTATE  
9 STATE OF CALIFORNIA

10 \* \* \*

11 In the Matter of the Accusation of: ) Case No. H-12337 SF  
12 )  
13 U.S. BALINA CORPORATION, and ) STIPULATION AND AGREEMENT  
EUGENE ROBERT RAFFANTI, ) IN SETTLEMENT AND ORDER  
14 )  
15 Respondents. )

16 It is hereby stipulated by and between Respondents U.S. BALINA  
17 CORPORATION ("U.S. BALINA"), acting by a through counsel Anthony L. Perez, EUGENE  
18 ROBERT RAFFANTI ("RAFFANTI"), acting by and through counsel Anthony L. Perez, and  
19 the Complainant, acting by and through Jason D. Lazark, Counsel for the Department of Real  
20 Estate ("Department"), as follows for the purpose of settling and disposing of the Accusation  
21 filed on May 17, 2019, in this matter:

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

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

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

13                   4. Respondents, pursuant to the limitations set forth below, hereby admit that  
14 the factual allegations as set forth in the Accusation filed in this proceeding are true and correct  
15 and the Commissioner shall not be required to provide further evidence of such allegations.

16                   5. This Stipulation and Agreement is made for the purpose of reaching an  
17 agreed disposition of this proceeding and is expressly limited to this proceeding and any other  
18 proceeding or case in which the Department, the state or federal government, any agency of  
19 this state, or an agency of another state is involved.

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

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1 7. The Order or any subsequent Order of the Real Estate Commissioner made  
2 pursuant to this Stipulation and Agreement shall not constitute an estoppel, merger or bar to  
3 any further administrative or civil proceedings by the Department with respect to any matters  
4 which were not specifically alleged to be causes for accusation in this proceeding.

5 8. Respondents understand that by agreeing to this Stipulation and Agreement,  
6 Respondents agree to be responsible for jointly and severally paying, pursuant to Section 10106  
7 of the Business and Professions Code (“the Code”), the costs of the investigation and  
8 enforcement of this case which resulted in the determination that Respondents committed the  
9 violation(s) found in the Determination of Issues. The amount of such costs is \$2,970.50.

10 9. Respondents further understands that by agreeing to this Stipulation and  
11 Agreement, Respondents agrees to be responsible for jointly and severally paying, pursuant to  
12 Section 10148 of the Code, the costs of the audit which resulted in the determination that  
13 Respondents committed the trust fund violation(s) found in the Determination of Issues. The  
14 amount of such costs audit costs is \$5,282.65.

15 10. Respondents further understand that by agreeing to this Stipulation and  
16 Agreement, the findings set forth below in the Determination of Issues become final, and that the  
17 Commissioner may charge Respondents for the costs of any audit conducted pursuant to Section  
18 10148 of the Code to determine if the violations have been corrected and hold Respondents  
19 jointly and severally responsible for paying the costs of the follow-up audit. The maximum  
20 costs of said follow-up audit shall not exceed \$6,603.31.

21 DETERMINATION OF ISSUES

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

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I.

The acts and omissions of U.S. BALINA, as described in the Accusation, are grounds for the suspension or revocation of the licenses and license rights of U.S. BALINA under the provisions of Sections 10176(g), 10177(d), and 10177(g) of the Code, in conjunction with Sections 10140.6, 10145, 10145(g), 10159.5 of the Code, and Sections 2731, 2832, 2831.1, 2831.2, 2773, and 2834 of Title 10, California Code of Regulations of the Regulations (“the Regulations”).

II.

The acts and omissions of RAFFANTI, as described in the Accusation, are grounds for the suspension or revocation of the licenses and license rights of RAFFANTI under the provisions of Sections 10159.2, 10176(g), 10177(d), 10177(g), and 10177(h) of the Code, in conjunction with Sections 10140.6, 10145, 10145(g), 10159.5 of the Code, and Sections 2731, 2832, 2831.1, 2831.2, 2773, 2834, and 2725 of the Regulations.

ORDER

I. AS TO U.S. BALINA

All licenses and licensing rights of U.S. BALINA under the Real Estate Law are suspended for a period of ninety (90) days from the effective date of this Order; provided, however, that:

1. Thirty (30) days of said suspension shall be stayed upon the condition that U.S. BALINA petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty pursuant to Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension, for a total monetary penalty of \$1,500.00.

a. Said payment shall be in the form of a cashier’s check made payable to the Department of Real Estate. Said check must be delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this Order.

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1               b.       No further cause for disciplinary action against the real estate license  
2 of U.S. BALINA occurs within two (2) years from the effective date of the Order in this matter.

3               c.       If U.S. BALINA fails to pay the monetary penalty in accordance with  
4 the terms and conditions of the Decision, the Commissioner may, without a hearing, order the  
5 immediate execution of all or any part of the stayed suspension, in which event, U.S. BALINA  
6 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the  
7 Department under the terms of this decision.

8               d.       If BALINA pays the monetary penalty, and if no further cause for  
9 disciplinary action against the real estate license of U.S. BALINA occurs within two (2) years  
10 from the effective date of the Decision herein, then the stay hereby granted shall become  
11 permanent.

12               2. The remaining sixty (60) days of said suspension shall also be stayed for two  
13 (2) years upon the following terms and conditions:

14               a.       U.S. BALINA shall obey all laws, rules and regulations governing the  
15 rights, duties and responsibilities of a real estate licensee in the State of California, and

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

22   II. AS TO RAFFANTI

23               All licenses and licensing rights of RAFFANTI under the Real Estate Law are  
24 suspended for a period of ninety (90) days from the effective date of this Order; provided, that:

25               1. Thirty (30) days of said suspension shall be stayed upon the condition that  
26 RAFFANTI petitions pursuant to Section 10175.2 of the Code and pays a monetary penalty  
27 pursuant to Section 10175.2 of the Code, at a rate of \$50 for each day of the suspension, for a

1 total monetary penalty of \$1,500.00.

2 a. Said payment shall be in the form of a cashier's check made payable to  
3 the Department of Real Estate. Said check must be delivered to the Department of Real Estate,  
4 Flag Section at P.O. Box 137013, Sacramento, CA 95813-7013, prior to the effective date of this  
5 Order.

6 b. No further cause for disciplinary action against the real estate license  
7 of RAFFANTI occurs within two (2) years from the effective date of the Order in this matter.

8 c. If RAFFANTI fails to pay the monetary penalty in accordance with the  
9 terms and conditions of the Decision, the Commissioner may, without a hearing, order the  
10 immediate execution of all or any part of the stayed suspension, in which event, RAFFANTI  
11 shall not be entitled to any repayment nor credit, prorated or otherwise, for money paid to the  
12 Department under the terms of this decision.

13 d. If RAFFANTI pays the monetary penalty, and if no further cause for  
14 disciplinary action against the real estate license of RAFFANTI occurs within two (2) years  
15 from the effective date of the Decision herein, then the stay hereby granted shall become  
16 permanent.

17 2. The remaining sixty (60) days of said suspension shall also be stayed for two  
18 (2) years upon the following terms and conditions:

19 a. RAFFANTI shall obey all laws, rules and regulations governing the  
20 rights, duties and responsibilities of a real estate licensee in the State of California, and

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

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1                   3. RAFFANTI shall, within six (6) months from the effective date of this  
2 Decision and Order, take and pass the Professional Responsibility Examination administered by  
3 the Department including the payment of the appropriate examination fee. If RAFFANTI fails to  
4 satisfy this condition, RAFFANTI'S real estate license shall automatically be suspended until  
5 RAFFANTI passes the examination.

6                   4. All licenses and licensing rights of RAFFANTI are indefinitely suspended  
7 unless or until RAFFANTI provides proof satisfactory to the Commissioner, of having taken and  
8 successfully completed the continuing education course on trust fund accounting and handling  
9 specified in paragraph (3) of subdivision (a) of Section 10170.5 of the Code. Proof of  
10 satisfaction of this requirement includes evidence that RAFFANTI has successfully completed  
11 the trust fund account and handling continuing education course, no earlier than 120 days prior to  
12 the effective date of the Decision and Order in this matter. Proof of completion of this  
13 continuing education course must be delivered to the Department of Real Estate, Flag Section, at  
14 P.O. Box 137013, Sacramento, CA 95813-7013 or by fax at 916-263-8943 prior to the effective  
15 date of this Decision and Order.

16                   III. AS TO RESPONDENTS JOINTLY AND SEVERALLY

17                   1. All licenses and licensing rights of Respondents, are indefinitely suspended  
18 unless or until Respondents, jointly and severally, pay the sum of \$2,970.50 for the  
19 Commissioner's reasonable cost of the investigation and enforcement which led to this  
20 disciplinary action. Said payment shall be in the form of a cashier's check or certified check  
21 made payable to the Real Estate Fund. The investigation and enforcement costs must be  
22 delivered to the Department of Real Estate, Flag Section at P.O. Box 137013, Sacramento, CA  
23 95813-7013, prior to the effective date of this Order.

24                   2. Respondents shall jointly and severally pay the sum of \$5,282.65 for the  
25 Commissioner's cost of the audit which led to this disciplinary action. Respondents shall  
26 jointly and severally pay such cost within sixty (60) days of receiving an invoice therefore  
27 from the Commissioner. The Commissioner shall indefinitely suspend all licenses and

1 licensing rights of Respondents pending a hearing held in accordance with Section 11500, et  
2 seq., of the Government Code, if payment is not timely made as provided for herein, or as  
3 provided for in a subsequent agreement between Respondents and the Commissioner. The  
4 suspension(s) shall remain in effect until payment is made in full or until Respondents enter  
5 into an agreement satisfactory to the Commissioner to provide for payment, or until a decision  
6 providing otherwise is adopted following a hearing held pursuant to this condition.

7           3. Respondents shall jointly and severally pay the Commissioner's costs, not to  
8 exceed \$6,603.31, of any audit conducted pursuant to Section 10148 of the Code to determine  
9 if Respondents corrected the violations described in the Determination of Issues, above, and  
10 any other violations found in the audit which led to this disciplinary action. In calculating the  
11 amount of the Commissioner's reasonable cost, the Commissioner may use the estimated  
12 average hourly salary for all persons performing audits of real estate brokers, and shall include  
13 an allocation for travel time to and from the auditor's place of work. Respondents shall jointly  
14 and severally pay such cost within sixty (60) days of receiving an invoice therefore from the  
15 Commissioner detailing the activities performed during the audit and the amount of time spent  
16 performing those activities. If Respondents fail to jointly and severally pay such cost within  
17 the sixty (60) days, the Commissioner shall indefinitely suspend all licenses and licensing  
18 rights of Respondents under the Real Estate Law until payment is made in full or until  
19 Respondents enter into an agreement satisfactory to the Commissioner to provide for payment.  
20 Upon full payment, the indefinite suspension provided for in this paragraph shall be stayed.

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JASON D. LAZARK, Counsel  
Department of Real Estate



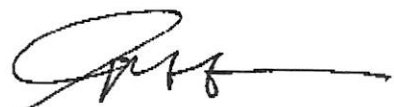
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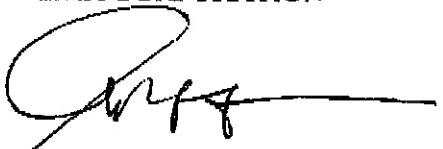
Respondents have read the Stipulation and Agreement in Settlement and Order and its terms are understood by Respondents and are agreeable and acceptable to Respondents. Respondents understand that Respondents are waiving rights given to them by the California Administrative Procedure Act (including but not limited to Sections 11506, 11508, 11509 and 11513 of the Government Code), and Respondents 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 Respondents would have the right to cross-examine witnesses against them and to present evidence in defense and mitigation of the charges.

Respondents and Respondents' attorney further agree to send the original signed Stipulation and Agreement by mail to the following address no later than one (1) week from the date the Stipulation and Agreement is signed by Respondents and Respondents' attorney: Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-7007. Respondents and Respondents' attorney understand and agree that if they fail to return the original signed Stipulation and Agreement by the due date, Complainant retains the right to set this matter for hearing.

3/11/2020  
DATED

  
EUGENE ROBERT RAFFANTI,  
Designated Officer for Respondent  
U.S. BALINA CORPORATION

3/11/2020  
DATED

  
EUGENE ROBERT RAFFANTI,  
Respondent

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

3/11/20  
DATED



ANTHONY L. PEREZ,  
Attorney for Respondents  
U.S. BALINA CORPORATION and  
EUGENE ROBERT RAFFANTI

\*\*\*

The foregoing Stipulation and Agreement is hereby adopted as my Decision in this matter and shall become effective at 12 o'clock noon on JUN 19 2020

IT IS SO ORDERED 3/30/20

ACTING REAL ESTATE COMMISSIONER

  
SANDRA KNAU