

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

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FILED

NOV 30 2020

DEPARTMENT OF REAL ESTATE
By B. Nicholas

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8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12 O'HANKS MANAGEMENT, INC., and)
13 CATHIE O'HANKS,)
14 Respondents.)

No. H-12438 SF

STIPULATION AND
AGREEMENT

15 It is hereby stipulated by and between O'HANKS MANAGEMENT, INC.,
16 (OHMI) and CATHIE O'HANKS (O'HANKS) (collectively "Respondents"), and the
17 Complainant, acting by and through Truly Sughrue, Counsel for the Department of Real
18 Estate (Department), as follows for the purpose of settling and disposing the Accusation filed
19 on April 15, 2020, in this matter:

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

25 2. Respondents have received, read, and understand the Statement to
26 Respondent, and the Discovery Provisions of the APA filed by the Department in this
27 proceeding.

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

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

16 5. This Stipulation and Agreement and Respondents' decision not to contest
17 the Accusation are made for the purpose of reaching an agreed disposition of this proceeding and
18 are expressly limited to this proceeding and any other proceeding or case in which the
19 Department, the state or federal government, an agency of this state, or an agency of another state
20 is involved.

21 6. Respondents understand that by agreeing to this Stipulation and
22 Agreement, Respondents agree to pay, pursuant to Section 10148 of the Code, the cost of the
23 audit, which resulted in the determination that Respondents committed the trust fund handling
24 violation(s) found in the Determination of Issues. The amount of said costs is \$7,071.88.

25 7. Respondents further understand that by agreeing to this Stipulation and
26 Agreement, the findings set forth below in the Determination of Issues become final, and that
27 the Commissioner may charge Respondents for the costs of any audit conducted pursuant to

1 III

2 The acts and omissions of O'HANKS as described in the Third Cause of Action
3 of the Accusation are grounds for the suspension or revocation of O'HANKS' licenses and
4 license rights under Section 10177(h) of the Code.

5 * * *

6 ORDER

7 I

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

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

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

22 3. OHMI shall not be eligible to apply for the issuance of an unrestricted real
23 estate license nor for removal of any of the conditions, limitations, or restrictions of a restricted
24 license until four (4) years have elapsed from the effective date of this Decision and Order.
25 OHMI shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to
26 the license have been removed.

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II

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

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

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

3. O'HANKS shall not be eligible to apply for the issuance of an unrestricted real estate license nor for removal of any of the conditions, limitations, or restrictions of a restricted license until four (4) years have elapsed from the effective date of this Decision and Order. O'HANKS shall not be eligible to apply for any unrestricted licenses until all restrictions attaching to the license have been removed.

4. O'HANKS shall submit with any application for license under an employing broker, or any application for transfer to a new employing broker, a statement signed by the prospective employing real estate broker on a form approved by the Department which shall certify:

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

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

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

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

III

1. Pursuant to Section 10148 of the Code, Respondents shall, jointly and severally, pay the sum of \$7,071.88 for the Commissioner's cost of the audit which led to this disciplinary action. Respondents shall pay such cost within sixty (60) days of receiving an

1 invoice therefore from the Commissioner. Payment of audit costs should not be made until
2 Respondents receive the invoice. If Respondents fail to satisfy this condition in a timely manner
3 as provided for herein, Respondents' real estate license shall automatically be suspended until
4 payment is made in full, or until a decision providing otherwise is adopted following a hearing
5 held pursuant to this condition.

6 2. Pursuant to Section 10148 of the Code, Respondents shall, jointly and
7 severally, pay the Commissioner's reasonable cost, not to exceed \$8,839.85, for an audit to
8 determine if Respondents have corrected the violation(s) found in the Determination of Issues.
9 In calculating the amount of the Commissioner's reasonable cost, the Commissioner may use the
10 estimated average hourly salary for all persons performing audits of real estate brokers, and shall
11 include an allocation for travel time to and from the auditor's place of work. Respondents shall
12 pay such costs within sixty (60) days of receiving an invoice therefore from the Commissioner.
13 Payment of the audit costs should not be made until Respondents receive the invoice. If
14 Respondents fail to satisfy this condition in a timely manner as provided for herein, Respondents'
15 real estate license shall automatically be suspended until payment is made in full, or until a
16 decision providing otherwise is adopted following a hearing held pursuant to this condition.

17 1-Oct-2020
18 _____
19 DATED


20 _____
21 TRULY SUGHRUE
22 Counsel for Complainant

23 * * *

24 I have read the Stipulation and Agreement, have discussed it with my counsel,
25 and its terms are understood by me and are agreeable and acceptable to me. I understand that I
26 am waiving rights given to me by the APA (including but not limited to Sections 11506,
27 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 and Statement of Issues at a hearing at which I would have the

1 right to cross-examine witnesses against me and to present evidence in defense and mitigation
2 of the charges.

3 Respondent and Respondent's attorney further agree to send the original signed
4 Stipulation and Agreement by mail to the following address no later than one (1) week from the
5 date the Stipulation and Agreement is signed by Respondent and Respondent's attorney:
6 *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-*
7 *7007.* Respondent and Respondent's attorney understand and agree that if they fail to return the
8 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
9 this matter for hearing.

10
11 24 Sept 2020
12 DATED

Cathie O'Hanks
13 Cathie O'Hanks,
14 Designated Officer
15 O'HANKS MANAGEMENT, INC.,
16 Respondent

15 24 Sept 2020
16 DATED

Cathie O'Hanks
17 CATHIE O'HANKS
18 Respondent

18 ***

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

21 9/24/20
22 DATED

Jacob G. Reinhardt
23 JACOB G. REINHARDT
24 Attorney for Respondents

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The foregoing Stipulation and Agreement is hereby adopted as my Decision and
Order and shall become effective at 12 o'clock noon on DEC 21 2020.

IT IS SO ORDERED 11.19.20.

DOUGLAS R. McCAULEY
REAL ESTATE COMMISSIONER

Douglas R. McCauley