

1 Department of Real Estate
2 P.O. Box 137007
3 Sacramento, CA 95813-7007
4 Telephone: (916) 576-8700

FILED

APR 21 2022

DEPARTMENT OF REAL ESTATE
By B. A. Chulda

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6
7
8 BEFORE THE DEPARTMENT OF REAL ESTATE
9 STATE OF CALIFORNIA

10 * * *

11 In the Matter of the Accusation of)
12) No. H-12549 SF
13 VERSO REAL ESTATE SERVICES INC.)
14 and EARLE F. MAKIN,) STIPULATION AND
15) AGREEMENT
16 Respondents.)

17 It is hereby stipulated by and between EARLE F. MAKIN (Respondent), and
18 the Complainant, represented by Marisol Ocampo, acting by and through Truly Sughrue,
19 Counsel for the Department of Real Estate (Department), as follows for the purpose of settling
20 and disposing the Accusation filed on September 8, 2021, in this matter:

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

26 2. Respondent has received, read, and understands the Statement to
27 Respondent, and the Discovery Provisions of the APA filed by the Department in this
proceeding.

1 3. Respondent 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 Respondent hereby freely and voluntarily withdraws said Notice of Defense. Respondent
4 acknowledges that Respondent understands that by withdrawing said Notice of Defense
5 Respondent will thereby waive Respondent's 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 Respondent will waive other rights afforded
8 to Respondent in connection with the hearing such as the right to present evidence in defense of
9 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, Respondent chooses not
12 to contest these factual allegations, but to remain silent and understands 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 Respondent's 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
20 state is involved.

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

1 7. The Order or any subsequent Order of the Commissioner made pursuant to
2 this Stipulation and Agreement shall not constitute an estoppel, merger or bar to any further
3 administrative or civil proceedings by the Department with respect to any matters which were
4 not specifically alleged to be causes for action in Accusation H-12549 SF.

5 * * *

6 DETERMINATION OF ISSUES

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

10 I

11 The acts and omissions of Respondent as described in the Second Cause of
12 Action in the Accusation are grounds for the suspension or revocation of Respondent's licenses
13 and license rights under Section 10177(a) of the Code.

14 II

15 The acts and omissions of Respondent as described in the Third Cause of Action
16 of the Accusation are grounds for the suspension or revocation of Respondent's licenses and
17 license rights under the following sections of the Code and Title 10 of the California Code of:

18 As to Paragraph 17(a), under Section 10177(d) of the Code in conjunction with
19 Section 10240(a) of the Code and Section 2840 of the Regulations;

20 As to Paragraph 17(b), under Section 10177(d) of the Code in conjunction with
21 Section 10236.4 of the Code; and

22 As to Paragraph 18, under Section 10177(d) of the Code in conjunction with
23 Section 10140.6(b) of the Code and Section 2773 of the Regulations.

24 III

25 The acts and omissions of Respondent as described in the Forth Cause of Action
26 in the Accusation are grounds for the suspension or revocation of Respondent's licenses and
27 license rights under Section 10177(h) of the Code.

1 * * *

2 ORDER

3 I

4 All licenses and licensing rights of Respondent under the Real Estate Law are
5 suspended for a period of sixty (60) days from the effective date of this Order; provided,
6 however, that:

7 1) Thirty (30) days of said suspension shall be stayed, upon the condition that
8 Respondent petition pursuant to Section 10175.2 of the Code and pays a monetary penalty
9 pursuant to Section 10175.2 of the Code at a rate of \$50 for each day of the suspension for a total
10 monetary penalty of \$1,500.

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

15 b) No further cause for disciplinary action against the Real Estate licenses of
16 Respondent occurs within two (2) years from the effective date of the decision in this matter.

17 c) If Respondent fails to pay the monetary penalty as provided above prior to the
18 effective date of this Order, the stay of the suspension shall be vacated as to that Respondent and
19 the order of suspension shall be immediately executed, under this Order, in which event the said
20 Respondent shall not be entitled to any repayment nor credit, prorated or otherwise, for the
21 money paid to the Department under the terms of this Order.

22 d) If Respondent pays the monetary penalty and any other moneys due under this
23 Stipulation and Agreement and if no further cause for disciplinary action against the real estate
24 license of said Respondent occurs within two (2) years from the effective date of this Order, the
25 entire stay hereby granted this Order, as to said Respondent only, shall become permanent.

26 2) Thirty (30) days of said suspension shall be stayed for two (2) years upon the
27 following terms and conditions:

1 a) Respondent shall obey all laws, rules and regulations governing the rights, duties
2 and responsibilities of a real estate licensee in the State of California; and,

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

8 3) All licenses and licensing rights of Respondent are indefinitely suspended unless
9 or until Respondent pays the sum of \$2,235 for the Commissioner's reasonable cost of the
10 investigation and enforcement which led to this disciplinary action. Said payment shall be in the
11 form of a cashier's check made payable to the Department of Real Estate. The investigative and
12 enforcement costs must be delivered to the Department of Real Estate, Flag Section at P.O. Box
13 137013, Sacramento, CA 95813-7013, prior to the effective date of this Decision and Order.
14

15 21-March-2022
16 DATED


17 TRULY SUGHRUE
18 Counsel for Complainant

19 * * *

20 I have read the Stipulation and Agreement, discussed it with my counsel, and its
21 terms are understood by me and are agreeable and acceptable to me. I understand that I am
22 waiving rights given to me by the California Administrative Procedure Act, and I willingly,
23 intelligently and voluntarily waive those rights, including the right of requiring the
24 Commissioner to prove the allegations in the Accusation at a hearing at which I would have the
25 right to cross-examine witnesses against me and to present evidence in defense and mitigation of
26 the charges.
27

1 Respondent and Respondent's attorney further agree to send the original signed
2 Stipulation and Agreement by mail to the following address no later than one (1) week from the
3 date the Stipulation and Agreement is signed by Respondent and Respondent's attorney:

4 *Department of Real Estate, Legal Section, P.O. Box 137007, Sacramento, California 95813-*
5 *7007.* Respondent and Respondent's attorney understand and agree that if they fail to return the
6 original signed Stipulation and Agreement by the due date, Complainant retains the right to set
7 this matter for hearing.

8
9 3/17/2022

10 DATED



11 EARLE F. MAKIN
12 Respondent

13 ***

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

16 3/18/22

17 DATED



18 MARISOL OCAMPO
19 Attorney for Respondent

20 * * *

21 The foregoing Stipulation and Agreement is hereby adopted as my Decision and
22 Order and shall become effective at 12 o'clock noon on MAY 12 2022.

23 IT IS SO ORDERED 4.14.22.

24 DOUGLAS R. McCAULEY
25 REAL ESTATE COMMISSIONER

